

1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 NORTHERN DISTRICT OF OKLAHOMA

3
4
5 W. A. DREW EDMONDSON, in his)
6 capacity as ATTORNEY GENERAL)
7 OF THE STATE OF OKLAHOMA and)
8 OKLAHOMA SECRETARY OF THE)
9 ENVIRONMENT C. MILES TOLBERT,)
10 in his capacity as the)
11 TRUSTEE FOR NATURAL RESOURCES)
12 FOR THE STATE OF OKLAHOMA,)

13 Plaintiff,)

14 vs.)

15 TYSON FOODS, INC., et al,)

16 Defendants.)

17 - - - - -
18 THE VIDEOTAPED 30(b)(6)
19 DEPOSITION OF BENNY McCLURE, produced as a
20 witness on behalf of the Plaintiff in the above
21 styled and numbered cause, taken on the 15th day of
22 August, 2007, in the City of Fayetteville, County of
23 Washington, State of Arkansas, before me, Lisa A.
24 Steinmeyer, a Certified Shorthand Reporter, duly
25 certified under and by virtue of the laws of the
26 State of Oklahoma.

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A P P E A R A N C E S

FOR THE PLAINTIFFS: Mr. Richard Garren

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-and-

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Mr. Tim Alsup (via phone)

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I N D E X

W I T N E S S P A G E

BENNY MCCLURE

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FOR GEORGE'S: Mr. James Graves

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(Whereupon, the deposition began at 9:03
a.m.)MR. GARREN: Again, for the Record I'm
going to invoke the Rule of Sequestration. In the
event that you leave the conference from the 09:03AMtelephone, please announce when you've left and when
you're coming in so we know who is in attendance at
the time of deposition. If everybody can agree to
that, fine. If not, let me know.(Whereupon, a discussion was held off 09:04AM
the Record.)VIDEOGRAPHER: We are now on the Record for
the deposition of Mr. Benny McClure. Today is
August 15th, 2007. The time is 9:04 a.m. Would
counsel please identify themselves for the Record? 09:05AMMR. GARREN: Richard Garren for the State
of Oklahoma.MR. BULLOCK: Louis Bullock for the State
of Oklahoma.MR. GRAVES: James Graves for George's, 09:05AM
Inc., and George's Farms, Inc.MS. HILL: Theresa Hill for Cargill Turkey
Production, LLC and Cargill, Inc.MR. HIXON: Philip Hixon for Peterson
Farms, Inc. 09:05AM

2 (Pages 2 to 5)

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<p>1 MR. TUCKER: Colin Tucker joining Theresa 2 Hill for the two Cargill entities, and I'm here with 3 Tim Alsup, the Cargill representative. 4 MS. THOMPSON: Erin Thompson for the Tyson 5 defendants. 09:05AM 6 MR. MIRKES: Craig Mirkes with Philip 7 Hixon. 8 MR. ELROD: John Elrod with Simmons Foods. 9 MR. GARREN: Go ahead, Jennifer. 10 MS. GRIFFIN: Jennifer Griffin for Willow 09:06AM 11 Brook. 12 MR. SANDERS: Bob Sanders for the Cal-Maine 13 defendants. 14 VIDEOGRAPHER: Thank you. The witness may 15 be sworn. 16 BENNY McCLURE 17 having first been duly sworn to testify the truth, 18 the whole truth and nothing but the truth, testified 19 as follows: 20 MR. GRAVES: Before we get started and I 09:06AM 21 won't have to do this again later, we had a number 22 of objections to the notice of deposition, from the 23 amended notice of deposition for the deposition 24 today which were outlined in a letter to counsel for 25 the State, Richard Garren, on July 20th of 2007, and 09:06AM</p>	<p>1 A I held the position of broiler manager at 2 George's. 3 Q How long was that position held by you? 4 A Five years. 5 Q Has there been any other positions then 09:07AM 6 besides those two? 7 A Not at George's. 8 Q And you've been employed previously by another 9 integrator; is that correct? 10 A That is correct. 09:08AM 11 Q Tell us that integrator and the length of time 12 that employment existed. 13 A I was employed by Tyson Foods for 14 approximately ten years. 15 Q And what was the approximate time frame in 09:08AM 16 which you were employed there? 17 A From '88 through '98. 18 Q What were the positions that you held at Tyson 19 Foods? 20 A Assistant hatchery manager, hatchery manager 09:08AM 21 and broiler grow-out manager and broiler supervisor, 22 broiler tech. 23 Q And when you say broiler tech, is that like a 24 field rep or field service tech that goes around and 25 visits the farms? 09:08AM</p>
Page 7	Page 9
<p>1 rather than making those objections over and over or 2 trying to read all of those sort of standing 3 objections in right now, I'm just going to make this 4 letter to counsel for the State an exhibit to the 5 deposition. 09:06AM 6 DIRECT EXAMINATION 7 BY MR. GARREN: 8 Q Mr. McClure, please state your full name for 9 the Record and to the court. 10 A Benny Lloyd McClure. 09:07AM 11 Q And are you currently employed? 12 A Yes. 13 Q For whom are you employed? 14 A George's. 15 Q And for how long have you been employed? 09:07AM 16 A Nine and a half years. 17 Q When you say George's, do you mean George's, 18 Inc., or George's Farms, Inc.? 19 A George's, Incorporated. 20 Q All right, and what position do you hold with 09:07AM 21 George's, Inc.? 22 A Live production manager. 23 Q Have you held any other positions in the past? 24 A Yes. 25 Q Tell me what those are. 09:07AM</p>	<p>1 A Yes. 2 Q Have you held any other positions in the 3 poultry industry besides the ones you've already 4 explained to us? 5 A I spent two and a half years as an assistant 09:08AM 6 farm manager prior to going to work for Tyson. 7 Q And as assistant farm manager, was that for a 8 company? 9 A No. It was for a contract farm. 10 Q A contract farm, and the contract farm was 09:09AM 11 contracted with what integrator? 12 A Tyson. 13 Q You understand you are here today to speak as 14 a company designee and as -- and that company would 15 be George's, Inc. Do you understand -- let me 09:09AM 16 clarify this. Does George's, Inc., own, wholly own 17 the George's Farm, Inc., company? 18 A Yes. 19 Q To try to make this simple today, what I'm 20 going to suggest is that when we refer to George's, 09:09AM 21 we'll refer to George's, Inc., the parent company. 22 If there is some particular answer that you believe 23 is better responded for from the entity George's 24 Farms, will you let me know that? 25 A Yes. 09:09AM</p>

<p style="text-align: right;">Page 10</p> <p>1 Q Okay. So you're here today speaking on behalf 2 of both entities. Do you understand that's your 3 role today? 4 A Yes. 5 Q And you're not speaking personally for 09:10AM 6 yourself but that of the knowledge of the company or 7 companies; is that your understanding? 8 A Yes, it is. 9 Q When we -- it's easy for us to use the terms I 10 or we or you when we're speaking, but for purposes 09:10AM 11 of this deposition, you'll agree with me that you 12 are always speaking on behalf of those entities, 13 George's, Inc., and George's Farms, Inc., unless you 14 specifically tell me otherwise. Can you agree to do 15 that in this deposition? 09:10AM 16 A Yes. 17 Q All right. I know you and I have met before 18 and we've had a prior deposition. The same similar 19 rules should apply. Please verbally respond when 20 you do so the Record is clear. I'll try not to 09:10AM 21 speak over you and hopefully you'll do the same for 22 me. Can you agree to do that? 23 A Yes. 24 Q Since the last opportunity for George's to 25 search for and produce records, have they made any 09:11AM</p>	<p style="text-align: right;">Page 12</p> <p>1 you specify that to me? 2 A Yes. 3 Q All right. The period of inquiry that we're 4 speaking about here today in the deposition is 09:12AM 5 essentially that time frame when George's, Inc., or 6 George's Farms began its operations within the IRW, 7 the Illinois River watershed. Do you understand 8 that then? 9 A Yes. 10 Q All right. If you need to limit your 09:12AM 11 responses, please let me know if it's some other 12 time frame. I'm going to use the term poultry waste 13 throughout this deposition. Your counsel has 14 objected to that as part of their objections in 15 their letter. I want to explain to you what I mean 09:12AM 16 by that and then so when I do use it, you'll 17 understand the term as I'm using it. I use it to 18 mean poultry excrement, the bedding material, feed 19 waste or any other waste associated with the 20 confinement of poultry in a grow house which is 09:13AM 21 removed periodically from the grow house and used or 22 disposed of elsewhere. Do you understand that 23 meaning of the term poultry waste, sir? 24 A I understand what you're calling poultry 25 waste. 09:13AM</p>
<p style="text-align: right;">Page 11</p> <p>1 additional searches for records that would be 2 responsive to requests made by the State of Oklahoma 3 in this case? 4 A Yes. 5 Q And have those productions been made? 09:11AM 6 A I don't believe that any additional documents 7 were found that we didn't find in the original 8 search. 9 Q Okay. So an additional search was made but no 10 documents were found and, therefore, none were 09:11AM 11 produced; is that a correct statement? 12 A Yes. 13 Q So when I use some terms in this deposition, 14 I'd like to define them up front so if we have any 15 problems, we can understand what we're each speaking 09:11AM 16 about. When I say you or your poultry growing 17 operation, what I mean by that is that a growing 18 operation that is either owned or managed by 19 George's and/or a contract grower farm for George's. 20 Do you understand that? 09:12AM 21 A Yes. 22 Q Okay, and many times I'll try and distinguish 23 those and if in fact your response calls for a 24 reason to distinguish that response as to either a 25 contract farm or a George's owner-managed farm, will 09:12AM</p>	<p style="text-align: right;">Page 13</p> <p>1 Q Okay, and I understand that it's common for 2 those in the industry, the poultry industry to use 3 the term litter; is that a fair statement? 4 A Yes. 5 Q Tell me what you mean by the term litter if 09:13AM 6 you use that term. 7 A Litter would be the bedding material that was 8 placed in the house, plus the manure. 9 Q Okay, and as I've seen in some documents, and 10 we may look at them later today, when you refer to 09:13AM 11 litter, that could also refer to fresh bedding 12 material; is that a fair statement or not? 13 A It could. 14 Q Okay. So if you use the term litter, when you 15 are using it, if -- am I to understand your term in 09:13AM 16 using it generally is to include the excrement or 17 manure of the chicken? 18 A As I would use the term, yes. 19 Q Okay. You were -- I assume you were provided 20 a copy of the exhibit -- I'll hand you what's been 09:14AM 21 marked Exhibit No. 1 and ask you if you've seen this 22 notice and the attachment, which is Exhibit A, to 23 that. 24 MR. GRAVES: Actually, Richard, I'm not 25 sure I provided this to them because you amended 09:14AM</p>

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1 this notice right after that and I'm not sure I ever
 2 got the original notice to the company.
 3 MR. GARREN: Okay.
 4 MR. GRAVES: Because you provided an
 5 amended notice right after that. 09:15AM
 6 MR. GARREN: I don't think we have the
 7 amended notice as part of this exhibit either as I
 8 look through this. Let me check.
 9 MR. GRAVES: I think the amendment was
 10 just -- 09:15AM
 11 MR. GARREN: Oh, the amended notice is in
 12 there.
 13 MR. GRAVES: Okay, I think the amendment
 14 was to add the videographer but I'm not sure.
 15 MR. GARREN: That's correct. 09:15AM
 16 Q My question to you, sir, would be in reference
 17 to the exhibit that's attached to this notice. It
 18 says at the top Rule 30(b)(6) notice, Exhibit A.
 19 It's approximately four or five pages down. Do you
 20 see that document? 09:15AM
 21 A Yes.
 22 Q Have you looked at this document before or
 23 seen this exhibit?
 24 A Yes, I have.
 25 Q You understand your role here today is to, as 09:15AM

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1 A Yes.
 2 Q And are you prepared to do so today?
 3 A Yes.
 4 Q What did you do to prepare yourself to testify
 5 on that particular subject? 09:16AM
 6 A I reviewed the corporate structure chart.
 7 Q And did you review any other documents besides
 8 the corporate structure chart?
 9 A Not to prepare for 36, no.
 10 Q That's my purpose. We're in this inquiry 09:17AM
 11 area.
 12 A Okay.
 13 Q Okay. Did you read any other documents
 14 besides the chart?
 15 A No. 09:17AM
 16 Q All right. Did you talk to anybody to prepare
 17 yourself for this area of inquiry?
 18 A Yes.
 19 Q Who did you speak with?
 20 A With Ancel McClane. 09:17AM
 21 Q Who is that person?
 22 A He's the chief financial officer for George's.
 23 Q Did you speak with anyone else besides Mr.
 24 McClane?
 25 A Not about this area. 09:17AM

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1 I understand it, to testify to all 36 areas of
 2 inquiry that are listed on Exhibit A; is that a
 3 correct statement?
 4 A Yes.
 5 Q All right, and are you prepared then to do 09:15AM
 6 that today?
 7 A Yes.
 8 Q All right. Let's move first -- I'm going to
 9 talk about the -- and you're welcome to reference
 10 this as we go through it because I will speak to the 09:16AM
 11 categories. So if you'll turn to Category 36, this
 12 one deals with corporate organizational structure,
 13 including without limitation, identification of
 14 officers, directors, shareholders, any relationship
 15 with any parent holding company or subsidiary, any 09:16AM
 16 relationship in or to any LLC, limited partnership,
 17 joint venture or association, and the identification
 18 of any areas of corporate business or operation
 19 conducted by you, meaning George's, in addition to
 20 your growing, processing and marketing of poultry 09:16AM
 21 and poultry products. Did I read that substantially
 22 correct there?
 23 A Yes.
 24 Q And are you the designee to testify on that
 25 subject? 09:16AM

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1 Q All right. Tell me, if you would, sir, what
 2 did you learn from that chart; who is the -- is
 3 George's, Inc., the parent company listed on that
 4 chart?
 5 A Yes. 09:18AM
 6 Q Can you tell me then -- George's Farms is
 7 listed as a wholly-owned subsidiary; is that a fair
 8 statement?
 9 A Yes.
 10 Q Are there any other wholly-owned subsidiaries 09:18AM
 11 besides that one?
 12 A Yes.
 13 Q What are those?
 14 A There are several. There's George's
 15 Processing. George's Processing, George's Farms, 09:18AM
 16 George's Gas.
 17 MR. GRAVES: It's on the contracts.
 18 A George's of Missouri is an affiliate.
 19 Q Is that all?
 20 A That's the ones I recall, yes. 09:19AM
 21 Q Do you have a copy of that chart? Let me ask
 22 you this: Do you know whether or not George's
 23 actually produced a copy of that chart in its
 24 production of documents to the State of Oklahoma in
 25 this case? 09:19AM

5 (Pages 14 to 17)

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1 A I do not know that.

2 Q Okay. When you say George's of Missouri is an

3 affiliate, explain to me what that affiliation is.

4 A In practical terms, George's of Missouri --

5 the broiler contract, the grow-out contracts are 09:19AM

6 under George's of Missouri, and George's of Missouri

7 grows the birds for George's, Inc.

8 Q Does George's of Missouri actually own the

9 birds or is it George's, Inc., that own the birds?

10 A I believe that George's, Inc., owns the birds. 09:20AM

11 Q Okay. Do you know how long George's of

12 Missouri has existed as an entity?

13 A Ten to fifteen years. I can't give you an

14 exact year. I know it's in that ten to fifteen

15 year. 09:20AM

16 Q Is it a corporation?

17 A Yes.

18 Q Do you know where it was incorporated; what

19 state?

20 A It's my belief that it was in Arkansas. 09:20AM

21 Q All right. Do you know who the board members

22 are of George's of Missouri?

23 A I don't know who all the board members are,

24 no.

25 Q Can you tell me the ones that you do know? 09:21AM

Page 19

1 A Gary George, CEO, Monty Henderson, Ancel

2 McClane. Those are the only ones that I know for

3 certain.

4 Q All right. Let's work back up the list.

5 George's Gas, that's a wholly-owned subsidiary; 09:21AM

6 correct?

7 A Correct.

8 Q Is that a company that sells propane?

9 A Yes, it is.

10 Q Does it sell any other products? 09:21AM

11 A No. Just propane.

12 Q And does it sell on a retail or wholesale

13 basis?

14 A Retail.

15 Q Does it sell to any contract growers? 09:21AM

16 A Yes.

17 Q Does it sell to customers other than contract

18 growers?

19 A Yes.

20 Q George's Farms or I'm sorry. The board for 09:22AM

21 George's Gas, do you know who's on that board?

22 A The same.

23 Q Same three?

24 A Three, yes.

25 Q Are there any others that you can recall that 09:22AM

Page 20

1 might be also on that board?

2 A Not that I know for certain.

3 Q All right. George's Farms, Inc., it's a

4 wholly-owned subsidiary. Do you know the names of

5 the board members for that company? 09:22AM

6 A The same three.

7 Q Are there others that you don't recall or is

8 that the limit of the board; that's all of them?

9 A There are probably others that I don't recall.

10 Q Do you have access to the documents that would 09:22AM

11 tell you the answer to who the board members are in

12 each of these companies? I don't mean sitting here

13 today, but generally in your business do you have

14 access to that information?

15 A I could get access to that information. 09:23AM

16 Q Okay. It could be furnished at a later date

17 if need be then; is that correct?

18 A Yes.

19 Q All right. With regard to George's

20 Processing, is that a corporation? 09:23AM

21 A Yes.

22 Q And it's wholly owned by George's, Inc.;

23 correct?

24 A Correct.

25 Q What does it do? 09:23AM

Page 21

1 A They process the broilers.

2 Q Does it do anything else for George's?

3 A No.

4 Q Does it process for anyone other than

5 George's? 09:23AM

6 A No.

7 Q Does George's have a commercial egg division

8 or portion of its business?

9 A It did have but that business has been sold.

10 Q When was that sold? 09:23AM

11 A Approximately three months ago.

12 Q And was that sale to a partnership or an LLC

13 that included the company Cal-Maine?

14 A That is my understanding, yes.

15 Q What is the name of the company that was 09:24AM

16 actually sold if it was -- well, let me ask you this

17 first: Was it sold as a company or were the assets

18 sold from the company, if you know?

19 A I believe it was sold as a company.

20 Q And what was the name of the company that was 09:24AM

21 actually sold then?

22 A The name that I knew it by was George's

23 Commercial Egg Division.

24 Q Do you know if it was a corporation itself or

25 not? 09:24AM

6 (Pages 18 to 21)

Page 22

1 A I don't know that.

2 Q Tell me briefly what type of facilities or
3 equipment, that sort of thing, did Commercial Egg,
4 George's Commercial Egg have and was used by
5 George's prior to its sale. 09:25AM

6 A There were production facilities, houses with
7 hens in them that produced the eggs. There was an
8 egg packing plant where the eggs were processed and
9 packed.

10 Q And miscellaneous equipment to do that? 09:25AM

11 A Yes.

12 Q All right. Were the eggs for breeder eggs or
13 were they commercial table eggs?

14 A Table eggs.

15 Q Does George's continue to operate any egg 09:25AM
16 operation for itself after the sale of this
17 business?

18 A Not commercial table eggs, no.

19 Q Okay. Does it -- does it raise or produce
20 hatching eggs or breeding eggs? 09:26AM

21 A Yes.

22 Q All right. So the only part of the entity of
23 George's that was sold was the commercial table egg
24 portion; is that my understanding?

25 A That is correct. 09:26AM

Page 23

1 Q Do you know whether or not George's Commercial
2 Egg had a separate board of directors?

3 A I don't know that.

4 Q Do you know who were the people in charge of
5 George's Commercial Egg Division when it was within 09:26AM
6 George's?

7 A Monte Terry was the manager of that operation.

8 Q Did he leave George's to go with that
9 operation when it was sold?

10 A Yes. 09:26AM

11 Q Do you know who Monte Terry would report to
12 when it was with George's?

13 A To Monty Henderson.

14 Q And Monty Henderson for the Record is the
15 president? 09:27AM

16 A Yes.

17 Q That's president of George's, Inc.?

18 A Yes.

19 Q All right. I have information that the
20 George's Missouri, Inc., was a consolidation of live 09:27AM
21 production of George's Farms in the year 1997. Is
22 that your understanding?

23 MR. GRAVES: Object to the form of the
24 question.

25 A That would have been in the time frame that I 09:27AM

Page 24

1 would have expected.

2 Q Did you understand it was a consolidation of
3 live production within that -- under that name,
4 George's Missouri, Inc.?

5 MR. GRAVES: Object to the form. 09:28AM

6 A Yes.

7 Q Do you know whether or not George's of
8 Missouri, Inc., prior to that consolidation had any
9 business of its own?

10 MR. GRAVES: Object to the form. 09:28AM

11 A No, I do not know if it --

12 Q Do you know whether or not George's of
13 Missouri, Inc., was formed for the purposes of
14 consolidating live production under its name?

15 MR. HIXON: Object to form. 09:28AM

16 A I believe that that would be accurate.

17 Q All right. Let's go back to George's Farms.
18 Tell me what it does. What is its purpose in the
19 George's family of companies?

20 A I don't know specifically what George's Farms 09:28AM
21 covers.

22 Q Okay. You're speaking on behalf of George's,
23 Inc., and you're telling me today you don't know
24 what George's Farms' duty or role is in the family
25 of George's companies? 09:29AM

Page 25

1 A I don't know specifically what George's Farms
2 does, what is under its umbrella.

3 Q Do you know who is in charge of George's
4 Farms?

5 A I know that George's Farms is a subsidiary of 09:29AM
6 George's, Inc. In preparing for this and looking at
7 the chart, I know that to be true.

8 Q All right.

9 A But to tell you what all falls under George's
10 Farms, I don't know that. 09:29AM

11 Q Do you know whether or not it owns any of the
12 equipment or facilities used by George's, Inc., in
13 the production of poultry products?

14 A I don't know that.

15 Q Do you know whether it owns any land used by 09:29AM
16 George's, Inc., in the production of poultry
17 products?

18 MR. HIXON: Object to form.

19 A I don't know that.

20 Q Where are the processing plants that are used 09:30AM
21 by George's Processing?

22 MR. GRAVES: Are you asking for the

23 Illinois River watershed?

24 Q I'm asking generally where are the processing
25 plants for George's Processing? 09:30AM

7 (Pages 22 to 25)

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<p>1 A There's a processing plant in Springdale, 2 Arkansas. There's a processing plant in 3 Butterfield, Missouri and there's a processing plant 4 in Harrisonburg, Virginia. 5 Q Can you tell me in the sequence of which of 09:30AM 6 these processing plants started first for George's 7 and which one is the second and third one, bring 8 them online? 9 MR. GRAVES: Object to the form. 10 A The processing plant in Springdale would be 09:31AM 11 the original plant. Second came the processing 12 plant in Butterfield, and third would be the 13 processing plant in Virginia. 14 Q Do you know when the processing plant in 15 Virginia went into effect? 09:31AM 16 MR. GRAVES: Object to the form. 17 Q Again, operations, that sort of thing? 18 MR. GRAVES: Object to the form and also a 19 continuing objection to -- I'm going to reserve 20 judgment but I know that we have some orders with 09:31AM 21 regard to the relevancy of things outside the 22 Illinois River watershed, and I'm not going to 23 instruct him not to answer yet, but we're moving 24 outside that watershed right now. 25 Q Approximately when did the Harrisonburg 09:31AM</p>	<p>1 A Yes. 2 Q Does Gene George have any position in either 3 of those two companies as an officer or director? 4 A I believe that Gene still carries the title of 5 chairman of the board or -- yes, I believe that's 09:34AM 6 right. 7 Q Gary Hopkins, what is his duties or title? 8 A Gary Hopkins is the flock accountant, grow-out 9 accounting. 10 Q Is he in the main offices at Springdale? 09:34AM 11 A Yes, he is. 12 Q And Springdale is the main offices for 13 George's, Inc., is it not? 14 A Yes, it is. 15 Q Stacy Harrison, what is his position? 09:34AM 16 A Stacy Harrison is broiler service. He is a 17 serviceman. 18 Q Is he -- is that position one that is a field 19 man that goes into the field or is he over the field 20 men? 09:34AM 21 MR. GRAVES: Object to the form. 22 A A field man. 23 Q All right, and Dennis Scott, what is his 24 position? 25 A Scott Dennis. 09:35AM</p>
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<p>1 processing plant go into operation for George's? 2 A We purchased that operation approximately six 3 years ago. 4 Q And the one in Butterfield, when did it go 5 into operation? 09:32AM 6 A Approximately 1986. 7 Q And the original processing plant at 8 Springdale started when? 9 A The original plant George's purchased I 10 believe in the '60's. 09:32AM 11 Q Let's talk about the officers of George's, 12 Inc. Can you tell me who they are? 13 A There's Gary George as CEO. Monty Henderson 14 is president of the company. Otto Jech is the 15 executive vice-president. 09:33AM 16 Q Could you spell his name, last name, please? 17 A J-E-C-H, I believe. 18 Q Thank you. 19 A Ancel McClane is the chief financial officer. 20 Q Is that generally considered the executive 09:33AM 21 committee of the board? 22 A Yes. 23 Q Does -- for George's Farms, Inc. -- are these 24 people you just named as officers, are they the same 25 officers for George's Farms, Inc.? 09:33AM</p>	<p>1 Q I'm sorry, Scott Dennis. 2 A Scott Dennis -- first, Scott Dennis is no 3 longer with the company. 4 Q All right. 5 A As of this week, he accepted a position 09:35AM 6 elsewhere, but Scott was fleet safety and 7 environmental, and his environmental duties dealt 8 with the processing plants and feed mill as far as 9 air permitting and that sort of thing. 10 Q Where did he leave to go to? 09:35AM 11 A He went to work for Four State Poultry. 12 Q And Kendall Pendergraft, is that person with 13 the company? 14 A Yes. Kendall is the broiler grow-out manager. 15 Q Ricky Pinkerton, is he with the company? 09:35AM 16 A Yes. 17 Q What is he? 18 A Ricky is the breeder grow-out manager. 19 MR. GRAVES: You guys, you are talking over 20 a little bit, over each other a little bit. 09:36AM 21 Q Are there any other managers besides the ones 22 you've just listed? We've talked about Pendergraft 23 and Pinkerton. Are there other types of managers 24 besides broiler and breeder managers? 25 A Within what scope? 09:36AM</p>

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1 Q I'm trying to get on the same level, same
 2 chart level of responsibility. Are there any other
 3 types of managers on that --
 4 A No.
 5 Q Tell me what an integrated company means. 09:36AM
 6 MR. HIXON: Object to the form.
 7 MR. GRAVES: Object to the form.
 8 A An integrated company is a company that
 9 raises, processes and sells in our industry
 10 broilers, chickens. 09:37AM
 11 Q Is George's considered an integrated company?
 12 A Yes, it is.
 13 Q All right. So they produce everything
 14 starting with the egg until the final processed meat
 15 is sold at wholesale or retail; is that a fair 09:37AM
 16 statement?
 17 MR. GRAVES: Object to the form.
 18 A Yes, that is a fair statement.
 19 Q Does George's have its own transportation
 20 facilities or company or operation to transport 09:37AM
 21 these products?
 22 MR. GRAVES: Object to the form, compound.
 23 Q Let me start over. Does George's have
 24 transportation capabilities to transport the
 25 finished product to either wholesale or retail 09:37AM

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1 market?
 2 A On a limited basis.
 3 Q Does it hire third parties to do that also?
 4 A Yes.
 5 Q Does it transport its poultry product prior to 09:37AM
 6 processing itself or use third-party companies to do
 7 that?
 8 A Prior to processing, George's transports the
 9 birds itself.
 10 Q All right. Is there a facility in Cassville, 09:38AM
 11 Missouri?
 12 A The Butterfield plant is located just north of
 13 Cassville and it will sometimes be referred to as
 14 the Cassville plant.
 15 Q All right. So it's one and the same if you 09:38AM
 16 use Butterfield or Cassville for purposes of
 17 George's understanding what it is?
 18 A Yes.
 19 Q All right. For birds grown in the IRW,
 20 Illinois River watershed -- 09:38AM
 21 A Yes.
 22 Q -- what processing plant do they go to?
 23 A Those birds could go to either the Springdale
 24 plant or the Butterfield plant.
 25 Q Is there any particular reason why they would 09:38AM

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1 go one place as opposed to another?
 2 A It would all depend on the scheduling that
 3 particular week, the logistics that particular week.
 4 Q So it doesn't -- certain houses located in a
 5 certain vicinity to the Butterfield plant don't 09:39AM
 6 always go to the Butterfield plant; they might
 7 sometimes go to Springdale?
 8 MR. GRAVES: Object to the form.
 9 A Yes.
 10 Q And it's possible then that some grow-out 09:39AM
 11 facilities, grow-out barns that may be actually
 12 closer to Springdale may on occasion -- that product
 13 may be processed at the Butterfield processing
 14 plant?
 15 MR. GRAVES: Object to the form. 09:39AM
 16 A That is correct.
 17 Q Does George's have growing operations, company
 18 operations within the IRW?
 19 A Ask the question again.
 20 Q Does George's, Inc., or its subsidiaries have 09:39AM
 21 growing, like poultry barns, within the IRW today?
 22 A Yes.
 23 Q Okay, and has it had growing facilities,
 24 poultry barns in the past?
 25 A Yes. 09:40AM

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1 Q And when I say in the past, in the IRW; is
 2 that correct?
 3 A Correct.
 4 Q Do you know when they first started having any
 5 poultry barns for grow-out purposes for George's 09:40AM
 6 within the IRW approximately?
 7 A Approximately in the 1940's.
 8 Q Does George's also have poultry barns located
 9 outside the IRW?
 10 MR. GRAVES: Object to the form. 09:40AM
 11 A And to make sure I understand, you're
 12 referring to contract --
 13 Q Let me ask it. I'm trying to mean George's
 14 company-owned or managed growing facilities, do they
 15 have any of those outside of the IRW? 09:40AM
 16 A Yes.
 17 Q And have they had some in the past also?
 18 A Yes.
 19 Q And do you know for how long?
 20 A Going back to the 1940 era. 09:41AM
 21 Q Maybe I can ask it this way: Does George's,
 22 Inc., have its own company-owned or managed poultry
 23 barns in the state of Arkansas?
 24 A Yes.
 25 Q State of Oklahoma? 09:41AM

<p style="text-align: right;">Page 34</p> <p>1 A No.</p> <p>2 Q State of Missouri?</p> <p>3 A No.</p> <p>4 Q Okay. State of Virginia?</p> <p>5 A No. 09:41AM</p> <p>6 Q The IRW -- the poultry barns located in the</p> <p>7 IRW, does George's, Inc., own those facilities?</p> <p>8 MR. GRAVES: Object to the form.</p> <p>9 A George's, Inc., owns one farm in the Illinois</p> <p>10 River watershed. 09:42AM</p> <p>11 Q Okay, and is that a broiler farm?</p> <p>12 A Yes.</p> <p>13 Q Do you know the name of that farm?</p> <p>14 A Morrison Farm.</p> <p>15 Q Has it owned more than one farm in the past 09:42AM</p> <p>16 within the IRW?</p> <p>17 MR. GRAVES: Object to the form.</p> <p>18 A That is the only farm that George's,</p> <p>19 Incorporated, has owned in the watershed that I'm</p> <p>20 aware of. 09:42AM</p> <p>21 Q Okay. Has George's or any subsidiaries of</p> <p>22 George's owned any other farms in the IRW now or in</p> <p>23 the past?</p> <p>24 A I'm not trying to dodge your question. I'm</p> <p>25 trying to think of -- there are -- there are other 09:43AM</p>	<p style="text-align: right;">Page 36</p> <p>1 MR. GRAVES: Object to the form.</p> <p>2 A Ask that question again, please.</p> <p>3 Q You've identified there are nine managed</p> <p>4 farms. Are there nine separate individuals from</p> <p>5 George's that manage these farms or do you have 09:45AM</p> <p>6 somebody who might manage more than one?</p> <p>7 A We have someone that manages more than one.</p> <p>8 Q How many managers then are there of the nine</p> <p>9 managed farms?</p> <p>10 A There are three different servicemen that are 09:45AM</p> <p>11 responsible for the management on those farms.</p> <p>12 Q When you say responsible, does that include</p> <p>13 the day-to-day operation?</p> <p>14 A Yes.</p> <p>15 Q Going in the barns, culling when necessary, 09:46AM</p> <p>16 doing the maintenance and those kinds of things that</p> <p>17 occur?</p> <p>18 MR. GRAVES: Object to the form.</p> <p>19 A Each farm has full-time employees that are</p> <p>20 responsible for the daily care of those birds. 09:46AM</p> <p>21 Q Okay. That would be in addition to the</p> <p>22 servicemen you just spoke about?</p> <p>23 A Yes.</p> <p>24 Q All right. Let's move to Inquiry No. 35 and</p> <p>25 that is the facts, reasons and basis supporting or 09:46AM</p>
<p style="text-align: right;">Page 35</p> <p>1 farms that are managed by George's, Inc., that are</p> <p>2 not owned by George's, Inc.</p> <p>3 Q Can you give me an example of the names of --</p> <p>4 do you know how many there are, managed farms?</p> <p>5 A I could count them in my head but I believe 09:43AM</p> <p>6 there are nine.</p> <p>7 Q And those are all in the IRW?</p> <p>8 A That are in the IRW.</p> <p>9 Q Okay, and when you say it's a managed farm,</p> <p>10 explain to me what that is. 09:43AM</p> <p>11 A It is a farm that is owned -- it is a farm</p> <p>12 that is owned by members of the George family or</p> <p>13 LLC's that are associated with the family that the</p> <p>14 company manages.</p> <p>15 Q Is the name GBH, LLC, an example of that? 09:44AM</p> <p>16 MR. GRAVES: Object to the form.</p> <p>17 A That would be an example of that.</p> <p>18 Q All right. Does the managed farms then have</p> <p>19 an employee from George's oversee the day-to-day</p> <p>20 operation of those farms? 09:44AM</p> <p>21 MR. GRAVES: Object to the form.</p> <p>22 A Yes.</p> <p>23 Q Are each of those nine farms managed by a</p> <p>24 different individual or does an individual have more</p> <p>25 than one farm under his or her control? 09:45AM</p>	<p style="text-align: right;">Page 37</p> <p>1 relied on by George's for responses made to the</p> <p>2 State's request for admissions served on or about</p> <p>3 April 20th, 2007. Are you the person designated for</p> <p>4 that purpose?</p> <p>5 A Yes. 09:46AM</p> <p>6 Q I'll hand you what's been marked as Exhibit</p> <p>7 No. 5 and ask you if you've seen that document</p> <p>8 before.</p> <p>9 A Yes, I have.</p> <p>10 Q Okay, and that's the State's request, is it 09:47AM</p> <p>11 not, for what's referred to as requests to admit and</p> <p>12 requests for production to George's, Inc.; is that</p> <p>13 correct?</p> <p>14 A Yes.</p> <p>15 Q All right. Let me hand you what's been marked 09:47AM</p> <p>16 as No. 6 and I want to hand you No. 7 at the same</p> <p>17 time, and we want to compare these two documents,</p> <p>18 and counsel may be able to help to expedite this,</p> <p>19 but it's my understanding that Exhibit 6 is</p> <p>20 George's, Inc.'s response to the State's requests. 09:48AM</p> <p>21 No. 7 is George's Farms, Inc. responses to the same</p> <p>22 State's requests. In my looking at these documents,</p> <p>23 I believe them to be essentially identical but for</p> <p>24 the fact they are answering for two entities. Do</p> <p>25 you know that to be a fair statement, a correct 09:48AM</p>

<p style="text-align: right;">Page 38</p> <p>1 statement?</p> <p>2 A I believe that to be a correct statement.</p> <p>3 Q Okay. So --</p> <p>4 MR. GRAVES: If you're asking if I cut and 5 pasted after responding once, I did. 09:48AM</p> <p>6 Q Okay. So when we refer to one of these, we 7 know we're talking about both of them essentially. 8 I wanted to try to make it easier for just looking 9 at two documents rather than trying to scramble 10 through three. All right? 09:48AM</p> <p>11 A Yes.</p> <p>12 Q Who did you speak to to be prepared to talk on 13 this subject?</p> <p>14 MR. GRAVES: I object to the form, and I 15 might be able to short circuit it if we go off the 09:48AM 16 Record just a second, that question.</p> <p>17 MR. GARREN: Okay.</p> <p>18 VIDEOGRAPHER: We are now off the Record. 19 The time is 9:48 a.m.</p> <p>20 (Whereupon, a discussion was held off 09:49AM 21 the Record.)</p> <p>22 VIDEOGRAPHER: We are back on the Record. 23 The time is 9:49 a.m.</p> <p>24 Q All right. There are two components of this 25 document as pointed out by the counsel off the 09:50AM</p>	<p style="text-align: right;">Page 40</p> <p>1 Q Were there any particular documents that you 2 referred to in order to prepare George's responses 3 to the requests to admit?</p> <p>4 MR. GRAVES: Object to the form.</p> <p>5 A No. 09:52AM</p> <p>6 Q So other than speaking to the attorneys, what 7 did you do to prepare yourself to speak on behalf of 8 the company about the responses?</p> <p>9 A Just spoke with the attorneys.</p> <p>10 Q Okay. Did you on behalf of George's read the 09:52AM 11 responses prior to them being produced to the State 12 of Oklahoma?</p> <p>13 A No, I don't believe I read the final draft 14 prior to them being produced.</p> <p>15 Q Do you know if anybody at George's in fact did 09:52AM 16 do that?</p> <p>17 A To my knowledge, no.</p> <p>18 Q Look, if you would, please, at Page 2, 19 Paragraph 6 of Exhibit 6. It shows an objection to 20 the definition of phosphorus. Do you see that? 09:53AM</p> <p>21 A Yes.</p> <p>22 Q Have you read this paragraph before?</p> <p>23 A Yes.</p> <p>24 Q Are you familiar with its statements or terms?</p> <p>25 A Yes. 09:53AM</p>
<p style="text-align: right;">Page 39</p> <p>1 Record. One is a request to admit facts and another 2 is a request to produce documents. Do you 3 understand that?</p> <p>4 A Yes.</p> <p>5 Q And were you in any way responsible for 09:50AM 6 providing information for the request to admit 7 facts? Maybe I better phrase it this way: Who at 8 George's was responsible for providing any 9 information to prepare the responses of George's to 10 this document? 09:50AM</p> <p>11 A Well, I was involved in that process, yes.</p> <p>12 Q Okay. Let me ask you, were you involved in 13 the process to provide information as it pertains to 14 the request to admit facts?</p> <p>15 A To the extent that I had discussions with our 09:51AM 16 attorneys, yes.</p> <p>17 Q Were you involved in the process with regard 18 to providing materials or information that would be 19 responsive to the requests for production of 20 documents in this document? 09:51AM</p> <p>21 A Yes.</p> <p>22 Q All right. Did you speak to anyone else 23 besides attorneys in order to assist in the 24 preparation of responses to the requests to admit?</p> <p>25 A No. 09:51AM</p>	<p style="text-align: right;">Page 41</p> <p>1 Q Let me ask you this: This says that George's 2 is going to assume that and will interpret the word 3 phosphorus to mean elemental phosphorus. Do you see 4 that on Page 3 of this document?</p> <p>5 A Yes. 09:53AM</p> <p>6 Q Do you know what that means?</p> <p>7 A Yes, I do.</p> <p>8 Q Tell me what you know it to mean.</p> <p>9 A When you're dealing in the world of chemistry, 10 which I'm not a chemist, but we all took some 09:54AM 11 chemistry in school, there is a difference between 12 pure elemental phosphorus and phosphorus that is in 13 combination with other elements or other compounds, 14 and that difference can be -- that can be a big 15 difference. 09:54AM</p> <p>16 Q Let me ask you this: Is it George's position 17 then that elemental phosphorus is what is excreted 18 from the rear of a chicken?</p> <p>19 A No.</p> <p>20 Q Okay. Why would George's assume then that the 09:54AM 21 State was talking about elemental phosphorus?</p> <p>22 A I don't know why in a matter of this magnitude 23 that George's would want to make an assumption 24 either way. There are terms and phrases that can be 25 used in casual conversation where you know your 09:55AM</p>

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1 audience and you understand that your audience knows
 2 what you're talking about that you can get away with
 3 using it casually, but where there's -- where
 4 there's liability or great consequences on the line,
 5 then I think it's important that you be specific. 09:55AM
 6 Q Okay. My question is why was that assumption
 7 to use in this response that George's believed we
 8 were speaking, the State was speaking of elemental
 9 phosphorus?
 10 MR. GRAVES: Object to the form. He's 09:55AM
 11 already answered your question. You just didn't
 12 like the answer.
 13 A I don't know why we would assume -- I don't
 14 know why we would have to make an assumption either
 15 way. 09:56AM
 16 Q All right. Let me ask you this, sir: When
 17 George's uses the term phosphorus in reference to
 18 chicken manure, what term is it using; elemental
 19 phosphorus?
 20 MR. HIXON: Object to form. 09:56AM
 21 MR. GRAVES: Object to the form.
 22 A Well, I've already -- as I said earlier, when
 23 you know your audience and you know your group, you
 24 can use common definitions that may not be
 25 technically or scientifically appropriate, but you 09:56AM

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1 know that there's a level of understanding there.
 2 So a term that I might use in my office might not be
 3 appropriate for a legal document.
 4 Q And when you use the term phosphorus in your
 5 office, what are you referring to? 09:57AM
 6 MR. GRAVES: Object to the form.
 7 A When I would use it in a casual conversation,
 8 I would be referring to P205, what you would test
 9 for in a soil test.
 10 Q Okay, and that's commonly referred to in soil 09:57AM
 11 tests as total P expressed as P205; is that a fair
 12 statement?
 13 MR. GRAVES: Object to the form.
 14 A That would be a fair statement.
 15 Q And when would you in your conversations as a 09:57AM
 16 live manager or broiler live manager use the term
 17 phosphorus meaning elemental phosphorus; how would
 18 you use that?
 19 MR. GRAVES: Object to the form.
 20 A I can't recall ever talking in my office 09:57AM
 21 specifically about elemental phosphorus.
 22 Q Okay. When you refer to P205, what do you
 23 call it?
 24 A When I refer to it, I call it phosphorus.
 25 Q Okay. Is that a common understanding of the 09:58AM

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1 use of that term within George's?
 2 A That would be a common layman's term.
 3 Q And those -- of those used -- by those used in
 4 George's company?
 5 MR. GRAVES: Object to the form. 09:58AM
 6 A Yes.
 7 Q Okay.
 8 A But one would --
 9 Q Does George's know what the agronomic need is
 10 for phosphorus as to plants? 09:59AM
 11 MR. HIXON: Object to form.
 12 MR. GRAVES: Object to the form.
 13 A No.
 14 Q Let me hand you what's been marked as Exhibit
 15 No. 4, and I'd ask you to look at this document, 09:59AM
 16 which is produced by the University of Arkansas, and
 17 the Page 3 of this document --
 18 A Which page?
 19 Q Page 3.
 20 MR. GRAVES: Is this something that was in 09:59AM
 21 our records that was in the George's production?
 22 MR. GARREN: No. This doesn't have a Bates
 23 stamp number on it.
 24 MR. GRAVES: I guess I'm going to ask which
 25 topic we're covering as far as George's knowledge 10:00AM

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1 about information? If this is something we've never
 2 seen and didn't produce, then we're not going to
 3 answer questions about it.
 4 MR. GARREN: Thank you.
 5 Q Now, I'll ask you to look at Page 3, and I'm 10:00AM
 6 going to read the first sentence.
 7 MR. GRAVES: I'm going to instruct you not
 8 to answer any questions about this document.
 9 Q It says, Arkansas scientists agree that there
 10 is no agronomic reason or need for STP levels to be 10:00AM
 11 greater than about 80 to 100 pounds and it talks
 12 about P by Mehlich III extraction per acre; do you
 13 see that sentence?
 14 MR. GRAVES: We're not answering any
 15 questions about the document. 10:00AM
 16 Q Do you see that sentence?
 17 MR. GRAVES: We're not answering.
 18 Q What's your response?
 19 MR. GRAVES: You can say that you're not
 20 answering on advice of counsel I guess if that's 10:00AM
 21 what he is going to insist on.
 22 A Not answering on advice of counsel.
 23 Q Okay. I'm going to read another sentence from
 24 that document at Page 3. The bottom of that same
 25 page it says, high levels of P can require as many 10:01AM

12 (Pages 42 to 45)

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1 as 15 to 20 years of continuous crop harvesting for
2 removal with no additional P from any source during
3 that time. Do you see that sentence?

4 A Not answering on advice of counsel.

5 Q So George's has no opinion today as to whether 10:01AM
6 or not either of those statements are true; is that
7 correct?

8 MR. GRAVES: I'm going to object to the
9 form. You can ask questions about what George's
10 opinion or what George's knowledge is about 10:01AM
11 information, but we're not going to answer questions
12 about documents that we didn't produce that we've
13 never seen before you thrust them in front of us at
14 a deposition.

15 Q Let me ask it this way: Does George's hold an 10:01AM
16 opinion that's different than what Arkansas
17 scientists have been reported to have said that
18 there is no agronomic reason for or need for STP
19 levels to be greater than 80 to 100 pounds per acre
20 according to Mehlich testing? 10:02AM

21 MR. GRAVES: Object to the form, but you
22 can answer if the company has an opinion that's
23 different than Arkansas scientists.

24 A Please ask that question one more time.

25 Q Does George's have an opinion whether or not 10:02AM

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1 it is correct in that there is no agronomic reason
2 or need for STP levels to be greater than about 80
3 to 100 pounds per acre according to Mehlich III
4 extraction?

5 MR. GRAVES: Object to the form. 10:02AM

6 A It is George's opinion that the agronomic
7 rates vary greatly depending on the species of the
8 plant that's being produced, the rate at which that
9 plant is growing and the conditions under which that
10 plant is being managed. So I would not agree that 10:03AM
11 that set range would be applicable for all forages
12 under all conditions.

13 Q Does George's have an opinion whether this
14 statement is true or false: High levels of P can
15 require as many as 15 to 20 years of continuous crop 10:03AM
16 harvesting for removal with no additional P from any
17 source during that time?

18 MR. GRAVES: Object to the form.

19 A I believe that that statement is too vague.

20 What is a high level? Are you talking about a level 10:03AM
21 that is so high that the ground is completely
22 saturated and that's all that's there? I don't
23 know -- I don't know what they're referring to as a
24 high level. Are they referring to a level -- a high
25 level just because it is beyond the agronomic rate 10:04AM

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1 for whatever specie of grass or forage or corn or
2 soybeans or for whatever species of plant that they
3 were at. There's not enough information there to
4 agree or disagree with.

5 Q Okay. Let's break for the tape. 10:04AM

6 VIDEOGRAPHER: We're now off the Record.

7 The time is 10:04 am.

8 (Following a short recess at 10:04

9 a.m., proceedings continued on the Record at 10:10

10 a.m.) 10:10AM

11 VIDEOGRAPHER: We are back on the Record.

12 The time is 10:10 a.m.

13 Q I'm going to ask you to look at Exhibit 6
14 again, please.

15 A Okay. 10:11AM

16 Q And specifically to Request to Admit No. 4 at
17 the bottom of Page 4 and it says, admit that poultry
18 waste for one or more of the poultry growing
19 operations that has been spread on land located
20 within the Illinois River watershed contains 10:11AM
21 phosphorus. The response says subject to, without
22 waiving, the general objections, George's denies.
23 Let me ask you some questions about this if I could,
24 please. Is George's objecting to the term growing
25 operations in this response or this request? 10:11AM

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1 A No.

2 Q Is George's objecting to the conclusion or
3 statement of fact that poultry waste contains
4 phosphorus?

5 MR. GRAVES: Object to the form. 10:12AM

6 A It is again the word -- the word phosphorus.

7 Q Is it because of the way it's spelled in this
8 particular statement, sir, or this --

9 MR. GRAVES: Object to the form.

10 A It goes back to what we had talked about 10:12AM
11 earlier of one has to make an -- in reading that,
12 one has to make an assumption what you mean when you
13 say phosphorus.

14 Q Okay. Let's look then, if you would, with

15 regard to that at the Exhibit No. 5 and in 10:12AM

16 particular Paragraph 3 where the State defines the
17 term phosphorus as it's used in these requests, and
18 if you would, take a moment, read that sentence at

19 Paragraph 3 and let me know when you've completed or
20 just read it into the Record, please. 10:13AM

21 A Phosphorus means phosphorus, phosphate and/or
22 phosphorus compounds.

23 Q All right. Now, knowing that's the term that
24 was intended by the State of Oklahoma, what is the
25 objection to the Request to Admit No. 4 when it asks 10:13AM

13 (Pages 46 to 49)

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1 whether waste having been applied in the IRW
 2 contains phosphorus?
 3 MR. GRAVES: Object to the form of the
 4 question.
 5 A To a -- to a chemist or a soil scientist the 10:13AM
 6 difference between phosphorus, phosphates or
 7 phosphorus compounds is a huge difference.
 8 Q Let me ask you this then: Is there a huge
 9 difference in George's understanding of that term?
 10 MR. GRAVES: I'll object to the form and 10:14AM
 11 ask that you let him finish his answers, too.
 12 A Please ask that question again.
 13 Q Is there a huge difference in the way George's
 14 understands that term --
 15 MR. HIXON: Object to form.
 16 Q -- as compared to a soil scientist as you just
 17 said?
 18 MR. GRAVES: Object to the form.
 19 A Again, we're kind of going around in circles
 20 here, but we won't -- we won't agree to the word -- 10:14AM
 21 in this we won't agree to just the word phosphorus
 22 because what does phosphorus mean? It means one
 23 thing in layman's terms visiting around my office,
 24 but it could mean something totally different when a
 25 soil scientist or a chemist sits down and looks at 10:15AM

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1 this. There's probably a pretty good chance at some
 2 point that there are going to be some soil
 3 scientists that get involved in this case, and when
 4 that happens and they start talking about what
 5 you've agreed to or what you've admitted to, the 10:15AM
 6 differences in those definitions can become quite
 7 large.
 8 Q Okay. Let me ask you this then: For George's
 9 purposes, what kind of phosphorus is included or
 10 contained within the excrement of its broilers or 10:15AM
 11 chickens?
 12 MR. GRAVES: Object to the form.
 13 A Based on litter assays, we know that there's
 14 P205.
 15 Q Okay. Let me ask this question: Does 10:15AM
 16 George's admit that poultry waste from one or more
 17 of your -- George's poultry growing operations that
 18 has been spread on the land located within the
 19 Illinois River watershed contain P205?
 20 MR. GRAVES: Object to the form, and again 10:16AM
 21 we have standing objections to the term poultry
 22 waste and poultry growing operations as well, which
 23 we made a part of the Record at the beginning of the
 24 deposition.
 25 A George's will agree that poultry manure, 10:16AM

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1 poultry litter contains P205.
 2 Q Okay. Now, George's has growing operations
 3 within the IRW?
 4 MR. GRAVES: Object to the form and the
 5 terminology of poultry growing operations. 10:16AM
 6 Q Do you understand what I mean by growing
 7 operations of George's? Let me rephrase it so that
 8 we're real clear. George's owns or manages growing
 9 facilities within the IRW and has for several years;
 10 correct? 10:17AM
 11 A Correct.
 12 Q Does it produce poultry waste or manure, any
 13 one of those?
 14 MR. GRAVES: Object to the form.
 15 A It produces manure. 10:17AM
 16 Q And does that manure get spread on the land
 17 when it's removed from the poultry barn?
 18 A Land located where?
 19 Q In the Illinois River watershed.
 20 A All of the broiler litter that has been 10:17AM
 21 produced out of George's-managed broiler farms for
 22 the last several years has been exported out of the
 23 watershed.
 24 Q Tell me when that started.
 25 A That started approximately four and a half to 10:17AM

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1 five years ago.
 2 Q And before that time was the poultry manure
 3 generated from those company-owned or managed farms
 4 spread on the land in the Illinois River watershed?
 5 A Before that time some of it was spread on the 10:18AM
 6 land in the Illinois River watershed.
 7 Q And you agree with me today when that
 8 occurred, that manure contained P205?
 9 A I will agree with that statement.
 10 Q Have you ever seen a manure management plan 10:18AM
 11 for water quality?
 12 A Yes.
 13 Q Let me hand you what's marked as Exhibit 8.
 14 This purports to be a manure management plan for
 15 water quality prepared by Washington County Soil & 10:18AM
 16 Water Conservation District. Have you seen a plan
 17 like this or similar to this before?
 18 A Yes, I have.
 19 Q You'll note on Page 2 or the Bates stamp
 20 number 18931, it's a Tyson document. This is dated 10:19AM
 21 in June of 1992; do you see that?
 22 A Yes, I do.
 23 Q In the middle of that page it talks about the
 24 analysis of broiler litter is and then it has three
 25 components; do you see those items? 10:19AM

14 (Pages 50 to 53)

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1 A Yes, I do.
 2 Q What is the second item; what is the term
 3 there?
 4 A It says phosphorus.
 5 Q All right, and what do you know -- do you know 10:19AM
 6 what that's referring to?
 7 A I do because off to the side it says P205.
 8 Q All right. At the next page of this document
 9 there's a chart near the bottom of that page that is
 10 headed nutrient balance and it has a column for 10:20AM
 11 nutrient; do you see that, sir?
 12 A Yes, I do.
 13 Q And it refers to P205 in that document, in
 14 that part of the document again, does it not?
 15 A Yes, it does. 10:20AM
 16 Q Can you tell me by looking at this document
 17 whether or not the actual application rate as
 18 opposed to the recommended rate is in excess of the
 19 P205 requirements?
 20 MR. HIXON: Object to form. 10:20AM
 21 A My understanding of this document is that
 22 application has not been made yet. There's the
 23 recommended application rate and then there's what
 24 would actually happen if he applied to meet that
 25 nitrogen requirement, and then it shows off to the 10:21AM

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1 side what the excess or deficiency would be with the
 2 other nutrients if you were to apply that, and I
 3 don't -- I don't think this is off the George's farm
 4 and I don't know if this gentleman did apply that or
 5 not. 10:21AM
 6 Q I'm not asking you that question either.
 7 A But I don't believe by reading the paragraph
 8 prior to that and how I understand this document, I
 9 don't believe that that is saying that he actually
 10 applied that and he actually was in excess on P205. 10:22AM
 11 I think what it's saying is, if he applied to meet
 12 the nitrogen rate, then that would be the nutrient
 13 balance.
 14 Q And I would agree with that. We don't know
 15 what he did, do we? 10:22AM
 16 A No, sir, we don't.
 17 Q All right, but if he were to apply, as you
 18 said, to satisfy the nitrogen rates or needs, there
 19 would be an excess application of P205 in that
 20 instance; is that a fair statement? 10:22AM
 21 MR. HIXON: Object to form.
 22 A I can only agree to what we're seeing here on
 23 this sheet.
 24 Q Let me ask you this, sir: Do you know whether
 25 or not in this same time frame of 1990 to 1992 did 10:22AM

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1 George's utilize any nutrient or waste management
 2 plans for any of its company-owned or managed farms?
 3 A Yes.
 4 Q They did use them; is that your response? I'm
 5 reasking because I've already got the form of the 10:23AM
 6 question, do you know. My question is, did George's
 7 in fact utilize nutrient management plans in the
 8 time frame of 1990 to 1992 on its company-owned or
 9 managed farms?
 10 A Yes. 10:23AM
 11 Q They did? Did they use them on all of their
 12 farms?
 13 MR. HIXON: Object to form.
 14 Q Company-owned or managed farms?
 15 A Yes. 10:23AM
 16 Q Does George's retain those documents in its
 17 records?
 18 A I don't believe that we would have kept those
 19 nutrient management plans still in the records.
 20 Those plans have been updated and there would be no 10:24AM
 21 need to keep the outdated plan.
 22 Q Are you telling me then that George's would
 23 have within its possession or control current
 24 nutrient management plans for its owned or managed
 25 farms? 10:24AM

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1 A Yes.
 2 Q Who retains those?
 3 A Those plans are kept in the contract file in
 4 the accounting office.
 5 Q Look at the next page of this document, if you 10:24AM
 6 would, sir. It's Bates number 18933, and it talks
 7 about nutrient management guidelines. Do you see
 8 that page?
 9 A Yes.
 10 Q Specifically Paragraph 2, it speaks in the 10:24AM
 11 last sentence, if animal waste is applied, follow
 12 guidelines for animal waste utilization and it
 13 refers to a Guide 39; do you see that?
 14 A I'm not sure that I'm on the same --
 15 Q Paragraph 2, the last sentence. It references 10:24AM
 16 a Guide 39. Do you see that?
 17 A Yes.
 18 Q If you'll turn to the next page -- let's see.
 19 Actually it would be -- go two pages past. I think
 20 you'll see the same document that's been referenced 10:25AM
 21 as Guide 39. Do you see that document?
 22 A I do.
 23 Q There's a typo that appears to be in the first
 24 sentence, animal waste can pollute ground and
 25 surface water. Do you see that? It's spelled 10:25AM

15 (Pages 54 to 57)

<p style="text-align: right;">Page 58</p> <p>1 P-O-I-L-U-T-E.</p> <p>2 A I do.</p> <p>3 Q Do you think that's intended to be</p> <p>4 P-O-L-L-U-T-E in reading that sentence?</p> <p>5 MR. GRAVES: Object to the form. 10:25AM</p> <p>6 A I can make an assumption but I would assume.</p> <p>7 Q All right. Do you know of a word named</p> <p>8 P-O-I-L-U-T-E?</p> <p>9 A I do not.</p> <p>10 Q I don't know either. So let's read it to 10:25AM</p> <p>11 assume that it means pollute.</p> <p>12 MR. GRAVES: Were you asking him whether he</p> <p>13 knew of the word or whether the company knew of a</p> <p>14 word? I'm just --</p> <p>15 MR. GARREN: Well, my questions are of the 10:26AM</p> <p>16 company. So if he can't answer as to the company,</p> <p>17 he would tell me. That was our agreement in the</p> <p>18 beginning.</p> <p>19 Q It says animal waste can pollute ground and</p> <p>20 surface water by increasing the content of nitrates, 10:26AM</p> <p>21 phosphates, bacteria and organic matter in the</p> <p>22 water; did I read that sentence correct?</p> <p>23 A Yes.</p> <p>24 Q Does George's agree with that statement?</p> <p>25 A George's would agree that under certain 10:26AM</p>	<p style="text-align: right;">Page 60</p> <p>1 potential for water pollution can be reduced by</p> <p>2 following these guidelines. Does George's agree</p> <p>3 with that statement?</p> <p>4 MR. HIXON: Object to the form.</p> <p>5 A George's would agree that following a nutrient 10:28AM</p> <p>6 management plan or following best management</p> <p>7 practices would eliminate or reduce the risk of</p> <p>8 pollution due to poultry litter.</p> <p>9 Q Let me ask you this question: This statement</p> <p>10 doesn't say eliminate. It says reduced. Is 10:28AM</p> <p>11 George's opinion then different than this last</p> <p>12 sentence? It says the potential for water pollution</p> <p>13 can be reduced by following these guidelines. Is it</p> <p>14 George's position that it would be eliminated or</p> <p>15 simply reduced? 10:28AM</p> <p>16 MR. GRAVES: Object to the form, and that's</p> <p>17 not the only word he used. He said eliminated or</p> <p>18 reduced.</p> <p>19 A And I understand what we're doing here. When</p> <p>20 you say that you have eliminated something, that 10:29AM</p> <p>21 means that you have taken the risk to zero, and I</p> <p>22 don't know that you can ever take any risk to zero,</p> <p>23 but by following a nutrient management plan, by</p> <p>24 executing best management practices, you can greatly</p> <p>25 reduce to the point of nearly eliminating the 10:30AM</p>
<p style="text-align: right;">Page 59</p> <p>1 conditions with a certain level of excess that it</p> <p>2 could potentially pollute.</p> <p>3 Q What are the conditions and the excess that</p> <p>4 George's believes?</p> <p>5 MR. HIXON: Object to form. 10:26AM</p> <p>6 A It would all have to depend on the set of</p> <p>7 circumstances that existed.</p> <p>8 Q Well, I'm sorry. Were you through? You said</p> <p>9 it depended on certain conditions. George's is or</p> <p>10 the premise of George's previous response was that 10:27AM</p> <p>11 it was dependent upon certain conditions. What are</p> <p>12 those conditions; what does George's know those</p> <p>13 conditions to be?</p> <p>14 A If you took a big enough pile of practically</p> <p>15 anything and put it in the wrong place, it could 10:27AM</p> <p>16 pollute. If you had a pile of poultry litter of</p> <p>17 substantial size uncovered right in a water runway,</p> <p>18 then that would have the potential to pollute.</p> <p>19 Q What is a water runway?</p> <p>20 A A river or a stream or anywhere substantial 10:27AM</p> <p>21 runoff would be.</p> <p>22 Q Okay, and when you say runoff, what do you</p> <p>23 mean?</p> <p>24 A Water running off under heavy rainfall.</p> <p>25 Q All right. The next sentence says, the 10:27AM</p>	<p style="text-align: right;">Page 61</p> <p>1 potential for pollution, but again if you have a big</p> <p>2 enough pile of anything, you have the potential for</p> <p>3 pollution.</p> <p>4 Q What has George's done to determine the</p> <p>5 validity of your statement that you can nearly 10:30AM</p> <p>6 eliminate it by following these animal waste</p> <p>7 utilization guidelines?</p> <p>8 MR. HIXON: Object to form.</p> <p>9 MR. GRAVES: Object to the form.</p> <p>10 A By participating with the NRCS in developing 10:30AM</p> <p>11 plans, maintaining those plans, executing those</p> <p>12 plans, it is George's opinion that having those in</p> <p>13 place reduces risk.</p> <p>14 Q Okay. My question, though, is this: What has</p> <p>15 George's done to ascertain or substantiate the basis 10:31AM</p> <p>16 for that opinion?</p> <p>17 MR. GRAVES: Object to the form. Do you</p> <p>18 mean aside from Guide 39 you just showed him?</p> <p>19 MR. GARREN: He has misstated what Guide 39</p> <p>20 said so I'm trying to figure out just what it is 10:31AM</p> <p>21 they have done, George's.</p> <p>22 MR. GRAVES: Well, I object to the form and</p> <p>23 he's already answered the question.</p> <p>24 A How did I misstate what it said?</p> <p>25 Q My question to you, sir, is, what did George's 10:31AM</p>

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1 do to substantiate or provide the basis for
 2 factually its opinion that you just gave on behalf
 3 of George's --
 4 MR. GRAVES: Object to the form.
 5 Q -- that you can nearly eliminate pollution 10:32AM
 6 from animal waste being applied?
 7 A I got that, but I'm not sure how I misstated
 8 -- you said I misstated 39. How did I misstate?
 9 Q Well, you added the term eliminated and it
 10 doesn't say that. It says to reduce, and we got off 10:32AM
 11 on talking about elimination, and now you have said
 12 nearly eliminated, and I'm asking what George's did
 13 to determine it's nearly eliminated if you follow
 14 these waste utilization guidelines; what did they
 15 study; what did they research; what did they do to 10:32AM
 16 determine the truth of that statement?
 17 MR. GRAVES: Object to the form.
 18 MR. HIXON: Object to form, assumes facts
 19 not in evidence.
 20 A George's has worked with the NRCS, who are the 10:32AM
 21 soil scientists, if you will, the people that are on
 22 the ground writing plans, monitoring those plans,
 23 evaluating those plans, updating those plans as
 24 necessary. George's has worked with those folks,
 25 and it is through our work with those people that 10:33AM

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1 are qualified to make those judgments that we have
 2 developed that opinion.
 3 Q When you say George's has worked with them,
 4 what has George's done? 10:33AM
 5 A George's has worked with them in -- as they
 6 come out and they soil test our fields and they put
 7 the maps together and we give them the information
 8 that they need to prepare our plans.
 9 Q Is that all that George's has done in order to
 10 substantiate its opinion that that nearly eliminates 10:34AM
 11 the potential for pollution from animal waste being
 12 spread on the land?
 13 MR. GRAVES: Object to the form.
 14 A When you're working with and cooperating with
 15 the people that are trained to do that, the people 10:34AM
 16 that are the soil scientists, the people that our
 17 government in fact puts out in the field to be the
 18 experts, that is enough to develop the opinion that
 19 I just expressed to you.
 20 Q Okay. Let me ask it this way then: Has 10:34AM
 21 George's done anything independent of that to
 22 determine the truth of the statement you've made for
 23 George's?
 24 MR. GRAVES: Object to the form.
 25 A It is not our opinion that we have to go out 10:35AM

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1 and verify what the government and the state and the
 2 soil scientists are telling us.
 3 Q Okay. Your answer is, you've not done that
 4 then; is that correct?
 5 MR. GRAVES: Object to the form. 10:35AM
 6 Q You've not done anything independent to
 7 determine whether or not that statement is correct?
 8 MR. GRAVES: Object to the form.
 9 A George's has not felt the need to do its own
 10 research or commission any studies when there are 10:35AM
 11 people in the field that are trained scientists that
 12 are trained to prepare these plans that are funded
 13 by the government, that are the experts in that
 14 arena. George's has not felt the need to go beyond
 15 that. 10:35AM
 16 Q So I understand your answer, when you say
 17 George's has not felt a need, it means they haven't
 18 done anything; is that a fair statement?
 19 MR. GRAVES: Object to the form. You've
 20 asked this question like three or four times now. 10:35AM
 21 A George's has not commissioned any study or
 22 research on its own to verify what the soil
 23 scientists and the people that are in the field paid
 24 by the government to do this.
 25 Q I'm going to refer you back to Exhibit 6 10:36AM

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1 again, sir, and we'll look at Request to Admit No.
 2 3. While you're looking at that, I'll read it to
 3 you. Admit that poultry waste from one or more of
 4 your poultry growing operations that has been spread
 5 on land located within the Illinois River watershed 10:37AM
 6 contains pathogens. The response says subject to
 7 and without waiving the general objections, George's
 8 lacks information sufficient to admit or deny the
 9 request, despite reasonable inquiry of information
 10 known or readily attainable by George's. Do you see 10:37AM
 11 that response; did I read it correctly?
 12 A Excuse me just a second. I want to get this
 13 lined up.
 14 Q I believe the request and the response are
 15 both contained in Exhibit 6, and we're talking about 10:37AM
 16 Request and Response No. 3.
 17 A Okay. Okay, and the response to that was on
 18 what page?
 19 Q Should be just below the request.
 20 A Okay. I'm with you, yes. I'm there. 10:38AM
 21 Q All right. Now, my question to you is, what
 22 did George's do as its reasonable inquiry of
 23 information in order to substantiate its statement
 24 that it lacks information to admit or deny this
 25 request? 10:38AM

17 (Pages 62 to 65)

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1 A Well, we don't know if any given unit of
2 poultry litter that was spread contained pathogens.
3 Q So for the entire period of time that George's
4 has been -- has spread poultry waste on the land,
5 you're telling me you don't know at any time whether
6 it contained any pathogens? 10:38AM

7 MR. GRAVES: Object to the form and again
8 note the objection to your poultry growing
9 operations and the lack of clarity about the
10 questions that are being asked right now. 10:39AM

11 MR. HIXON: Object to the form.
12 Q Let me make it clear because I haven't asked
13 about contract farms. I'm asking about poultry
14 operations owned or operated by George's in this
15 question. All right? 10:39AM

16 A Yes.
17 Q With that regard, what did George's do where
18 it says despite reasonable inquiry of information;
19 what was the reasonable inquiry of information
20 George's made in order to make this response? 10:39AM

21 MR. GRAVES: I'm going to object again
22 because that's not the question that was requested
23 in the Request to Admit No. 3. It was not limited
24 to owned or managed farms. It was asking about a
25 defined, your poultry growing operations. 10:39AM

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1 Q Okay. Let's break it down then. We'll talk
2 about it in two components, one, contract farms and
3 one with grower-owned or managed farms. Does
4 George's admit that poultry waste from its contract,
5 or I'm sorry. Let me restate it. Does George's
6 admit that poultry waste from one or more of its
7 owned or managed farms that has spread waste on the
8 land located within the IRW contains pathogens? 10:39AM

9 A There is the potential for a load of litter
10 that is spread to contain pathogens. There's also
11 the potential for it not to contain pathogens. 10:40AM

12 Q What kind -- I'm sorry. Are you through? I
13 thought you were.

14 A It all depends on how that litter was handled,
15 if it was deep stacked, if it had been composted,
16 did it go through a heat, was it loaded in the
17 afternoon and sat on the truck overnight and went
18 through a heat and was spread the next morning. Is
19 there a potential for a load of poultry litter to
20 contain pathogens when it's applied? Yes. Is there
21 the potential for it to not? Yes, depending upon
22 the circumstances that surrounded that particular
23 load of litter. 10:40AM

24 Q Is it George's opinion that 100 percent of
25 pathogens can be eliminated by heating it as you've
10:41AM

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1 described either on a truck or left in a barn?

2 MR. GRAVES: Object to the form of the
3 question.

4 A Do you have a definition for pathogens in
5 this? 10:41AM

6 Q Let's look at No. 5, Page 2, Paragraph 4.
7 You've read the definition, sir?

8 A Yes, sir.

9 Q Does it change your response or do you want to
10 change the response? 10:42AM

11 MR. GRAVES: Object to the form.

12 A It is George's opinion that there are -- there
13 are elements of that term of pathogen that can be
14 eliminated but it is not George's opinion that 100
15 percent of all of those pathogens could be
16 eliminated. 10:42AM

17 Q When did George's first know that poultry
18 manure contains any of those pathogens that are
19 described in Paragraph 4, Exhibit 5?

20 A When did George's first know that poultry
21 litter contained any of those pathogens? 10:43AM

22 Q Poultry manure.

23 A Poultry manure?

24 Q Yes, sir.

25 A I couldn't tell you the date that George's
10:43AM

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1 became aware of that but for a long time.

2 Q Prior to 1950?

3 MR. GRAVES: Object to the form.

4 A I can't say for certain prior to 1950, but for
5 a long time George's has been aware of that. 10:43AM

6 Q Since 1960 it's been aware of that?

7 A Again, I can't tell you the date that that
8 became corporate knowledge, but it would have been a
9 long time ago. I would assume -- I would assume in
10 that era. 10:43AM

11 Q Okay. Are there occasions when George's is
12 processing poultry that -- let me ask it this way:
13 When processing occurs of a poultry product, are
14 there USDA inspections that occur?

15 A Yes. 10:44AM

16 Q Are any of those inspections related to the
17 presence of pathogens or bacteria?

18 A Yes.

19 Q If pathogens or bacteria is present, what's
20 done with the meat that's determined to have those
21 present? 10:44AM

22 A By the time that determination is made,
23 that -- you can't -- you can't visually inspect a
24 carcass for bacteria or Salmonella. So you would
25 take a carcass rinse, send that rinse off to the
10:45AM

18 (Pages 66 to 69)

<p style="text-align: right;">Page 70</p> <p>1 lab, have it tested and determine what is in that 2 rinse. By that time that product is gone; it's in 3 the marketplace. 4 Q So if it contained bacteria or pathogens, it's 5 already left George's at that time? 10:45AM 6 MR. HIXON: Object to form. 7 A Unless, unless something has been sterilized 8 or autoclaved, everything contains bacteria or 9 pathogens. As we sit here, we contain bacteria or 10 pathogens. My coffee cup contains bacteria or 10:45AM 11 pathogens. The meal that we will eat for lunch 12 contains bacteria and pathogens unless it's just 13 been sterilized, and then if it's been subjected to 14 the open air, it's recontaminated. 15 Q Would you agree with me, sir, that poultry 10:46AM 16 manure contains bacteria or pathogens when it's 17 spread on the land? 18 A I think I told you earlier that by -- if it's 19 composted or gone through a heat, there are species 20 in that group that can be eliminated but not -- but 10:46AM 21 under your definition -- under the printed 22 definition of pathogens here, they can't all be 23 eliminated. 24 Q Is its -- is it George's regular practice to 25 heat the poultry waste before it's spread on the 10:46AM</p>	<p style="text-align: right;">Page 72</p> <p>1 manure was removed from the barns, wouldn't it -- 2 wasn't it George's practice to immediately apply it 3 or spread it on the land? 4 MR. GRAVES: Object to the form. 5 A That would have been a common practice. 10:48AM 6 Q And it would be a common practice for 7 George's, too; is that what you're saying? 8 MR. GRAVES: Object to the form. 9 Q Or just everybody? 10 A That would have been a common practice for 10:48AM 11 George's. 12 Q And that's its company-owned or managed farms; 13 correct? 14 A Correct. 15 Q All right. Now, let me ask you, does George's 10:48AM 16 know that that would be the common practice for its 17 contract grower farms? 18 A That would have been a common practice for its 19 contract grower farms. 20 Q What is the earliest date that George's knows 10:48AM 21 governmental regulations were enacted to control in 22 some or in part or whole the spreading of poultry 23 manure? 24 MR. GRAVES: Object to the form. 25 A Please ask the question again. 10:49AM</p>
<p style="text-align: right;">Page 71</p> <p>1 land? 2 MR. HIXON: Object to form. 3 A On the George's company-managed farms it is 4 our practice to clean those houses out, put that 10:47AM 5 litter in a stacking shed where it's deep stacked 6 until it can be loaded and transported. In that 7 deep stacking, that's when it will go through the 8 compost, go through the heat. 9 Q Are you telling me that in every instance 10 that's what George's does, deep stack the poultry 10:47AM 11 waste when it's removed from the barn? 12 A I won't say that in 100 percent of the 13 instances but in the vast majority of the instances 14 that is the way it happens. 15 Q That's the way it happens now. In the past is 10:47AM 16 that the same way that it's always happened? 17 A No. 18 Q In fact, stacking sheds probably didn't exist 19 several years ago; would you agree with that? 20 MR. GRAVES: Object to the form. 10:47AM 21 A I would agree that structures that were 22 designed and built solely for the use of stacking 23 poultry litter were not nearly as common years ago 24 as they are now. 25 Q All right, and in those years when the poultry 10:47AM</p>	<p style="text-align: right;">Page 73</p> <p>1 Q Yeah. What does George's know to be the 2 earliest time that certain regulations were enacted 3 that attempted to control the spreading on the land 4 of poultry manure? 5 MR. GRAVES: Same objection. 10:49AM 6 Q Either in Arkansas or Oklahoma, if you know? 7 A That would have started to happen in the late 8 '80's, early '90's. 9 Q And what regulation are you referring to 10 starting in the late '80's to early '90's? 10:49AM 11 A That is approximately the time when the NRCS, 12 which I believe was called the Soil Conservation 13 District back then, started writing nutrient 14 management plans, started becoming active in that 15 arena. 10:50AM 16 Q Okay. When, if any, did George's first 17 take -- let me ask you this: Does George's, in the 18 past did it spread poultry waste on land that 19 George's owned? 20 MR. GRAVES: Object to the form of the 10:50AM 21 question and to the terminology. 22 A George's spread poultry litter on land that it 23 owned. 24 Q And did it spread it on land of others in 25 addition to that? 10:50AM</p>

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1 A It may have sold litter to neighbors or other
2 farmers.
3 Q Who then spread it on their land?
4 A Who would have applied it or paid a contractor
5 to apply it. 10:51AM
6 Q Okay. When was the first time George's used a
7 soil test in advance of spreading any poultry waste
8 on its land that it owned?
9 A I don't know when the first time was and I
10 don't know that any -- I don't believe that anyone 10:51AM
11 at George's could tell you exactly when the first
12 time was.
13 Q Would it be a fair statement that it would
14 have occurred at least when the regulations required
15 it to be done? 10:51AM
16 MR. GRAVES: Object to the form.
17 A At the time that George's would have started
18 to participate with the Soil Conservation District
19 or the NRCS in developing these plans, that was a
20 completely voluntary program. There was not a 10:51AM
21 regulation or a law that required it to be that way.
22 Q Is it -- I'm sorry. Go ahead.
23 A It was something that we did and growers did
24 to cooperate with the Conservation District, and it
25 may have been -- I'm not sure -- I don't recall 10:52AM

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1 exactly at what point the NRCS picked up that title,
2 so I'm --
3 Q And I'm not quibbling with that or asking
4 about that. I'm trying to ascertain was that the
5 time that George's believes that it began using soil 10:52AM
6 tests before it would apply any poultry manure to
7 the land?
8 MR. GRAVES: Was what the time?
9 MR. GARREN: The time that he spoke about
10 when they started cooperating with the NRCS. 10:52AM
11 A The -- those plans did not require a soil test
12 prior to every application. They required periodic
13 soil testing.
14 Q And my question then is, is that the time that
15 George's would have first began using soil tests, if 10:52AM
16 it did?
17 A Yes.
18 Q Okay. Earlier you described the term runoff
19 as that which is water running off the land after
20 some precipitation, maybe even heavy precipitation. 10:53AM
21 Is that a fair statement of what you said? Tell me
22 what --
23 A Yes.
24 Q -- you said if I'm misstating. I don't mean
25 to misstate you. 10:53AM

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1 A No. I believe that's the way I stated it.
2 Q Is there any -- does George's understand
3 that's what runoff is?
4 A George's would agree with that definition of
5 runoff. 10:53AM
6 Q Okay. Look again at Exhibit 6, the responses
7 to requests for admission and actually the Request
8 to Admit No. 6 and its response on Page 5.
9 A Okay.
10 Q The request says, admit that poultry waste 10:54AM
11 from one or more of your poultry growing operations
12 that has been spread on the land located within the
13 Oklahoma portion of the Illinois River watershed has
14 run off from the land upon which it has been
15 applied, and the response from George's is subject 10:54AM
16 to, without waiving, the general objection, George's
17 denies. Tell me what portion of that request is it
18 that is objectionable to George's to form a basis of
19 denial.
20 A Well, of course, we've already talked about 10:55AM
21 the fact that George's doesn't agree with the term
22 poultry waste.
23 Q Okay.
24 A Second part of that is, is we don't know -- we
25 don't know that any poultry litter has ever run off 10:55AM

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1 the land over there on which it was applied. We
2 don't know that. One could make some assumptions,
3 but we don't know which load of litter ran off of
4 which piece of land that went into which stream. We
5 don't know that. 10:55AM
6 Q Okay.
7 A And so we can't admit to what we don't know.
8 Q Has George's done anything at any time to
9 ascertain whether or not runoff has occurred or was
10 occurring from any land where its poultry manure was 10:55AM
11 applied?
12 MR. GRAVES: Object to the form of the
13 question, and I'll again note the definition of your
14 poultry growing operations in the request as well.
15 Q Let's confine this question -- again, I've not 10:56AM
16 said contract growers. I'm saying your growing
17 operations, meaning company owned or managed.
18 A Well --
19 MR. GRAVES: I'm just trying to be fair
20 because that's not the definition of that term in 10:56AM
21 the request that was being responded to at the time.
22 A We don't -- we don't have -- George's does not
23 have any company-managed operations in Oklahoma,
24 so --
25 Q It never has? 10:56AM

20 (Pages 74 to 77)

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1 A Not that George's has owned or managed. We
 2 have -- we have contract farms in Oklahoma.
 3 Q Okay. Do you know whether or not growing
 4 operations in Arkansas that produced poultry manure
 5 was then spread in Oklahoma? 10:56AM
 6 A I do know that that has happened, yes.
 7 Q All right, and do you know whether or not
 8 George's has made any determination at any time
 9 whether or not where that was spread, that manure
 10 was spread it ever ran off of that field? 10:57AM
 11 A George's worked with the -- Oklahoma's
 12 equivalent of the NRCS. I'm not -- in having a plan
 13 for that farm, that piece of property and in
 14 providing them the records that they needed in order
 15 to properly prepare that plan, and we abided by that 10:57AM
 16 plan, and so we don't know if any -- we don't know
 17 if any litter ran off of that farm or not. What we
 18 do know is that we did the things that were asked of
 19 us by the soil scientists that were on the ground
 20 preparing those plans. 10:58AM
 21 Q And before those plans were being used, what
 22 did George's do to ascertain whether or not it can
 23 be safely -- the poultry manure can be safely
 24 applied to that land?
 25 MR. GRAVES: Object to the form. 10:58AM

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1 MR. HIXON: Object to form.
 2 MR. GRAVES: And foundation.
 3 A That particular -- the piece of ground that we
 4 would have applied litter to in Oklahoma, I don't
 5 believe that George's owned that prior to the time 10:58AM
 6 that we would -- that the plans would have been out
 7 there and we would have had a plan. Any
 8 applications that were made to that piece of
 9 property I believe would have been made according to
 10 a plan. 10:58AM
 11 Q Does George's still own property in Oklahoma?
 12 A No, it does not.
 13 Q When did it get rid of the land that it did
 14 own or sell it, transfer it?
 15 A In the last year. 10:59AM
 16 MR. GRAVES: We're laughing because he knew
 17 I was going to object to the term get rid of.
 18 Q Do you know whether or not George's has made
 19 any attempt to undertake a study or research whether
 20 or not poultry waste, poultry manure runs off land 10:59AM
 21 from which it's been applied?
 22 A George's has not independently commissioned
 23 any studies to make that determination.
 24 Q Do you know whether or not George's has made
 25 any independent research into whether or not poultry 10:59AM

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1 manure when spread on the land can run off?
 2 MR. GRAVES: Object to the form.
 3 A George's has not.
 4 Q Okay. Let me hand you what's been marked as
 5 Exhibit No. 33 and ask you to look at that document, 11:00AM
 6 if you would, please.
 7 MR. GRAVES: Richard, are you suggesting
 8 that the third page of this exhibit goes with the
 9 first two?
 10 MR. GARREN: I just saw that. No, I'm not. 11:01AM
 11 MR. GRAVES: Are we detaching it or are you
 12 going to leave it in the exhibit?
 13 MR. GARREN: We're leaving it in there but
 14 it shouldn't be at this location.
 15 MR. GRAVES: Okay. 11:02AM
 16 Q Have you looked at Page 1 and 2 of this
 17 exhibit, sir?
 18 A I have.
 19 Q Do you know who Fred Edwards is?
 20 A I do. 11:02AM
 21 Q Is he still with George's?
 22 A He is not.
 23 Q Do you know when he left George's
 24 approximately?
 25 A Four and a half years ago. 11:02AM

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1 Q Okay, and his position as production manager,
 2 what is that?
 3 A Live production manager. That's the same
 4 position I currently hold.
 5 Q Okay. In 1998 this letter apparently is 11:02AM
 6 written to George's Arkansas growers. Do you know
 7 whether or not a similar letter was written to any
 8 Arkansas growers -- I mean Oklahoma growers?
 9 A It would have been common at that time for
 10 Fred to write a letter and address it to Arkansas 11:02AM
 11 growers, to Missouri growers, to Oklahoma growers.
 12 It would have been common for him to do that. I
 13 don't know and I don't know that anyone in George's
 14 would know if he did it on this particular letter or
 15 if he only sent it to Arkansas growers. 11:03AM
 16 Q In 1998 when this letter was written, March 2,
 17 1998, it states in the second sentence, a major
 18 concern being expressed is that some land where
 19 poultry litter has been used over a long period of
 20 time is saturated with phosphorus and is now getting 11:03AM
 21 into streams and lakes and causing algae growth and
 22 affecting water quality. Do you see that statement?
 23 A I do.
 24 Q Do you understand what he means by the term
 25 phosphorus when he uses that sentence? 11:03AM

21 (Pages 78 to 81)

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1 A I do.
 2 Q And when I say you, I mean George's.
 3 A Yes, George's understands what he means.
 4 Q And would that reference then be to the P205
 5 variety of phosphorus? 11:03AM
 6 A Yes.
 7 Q Was George's also concerned at this time that
 8 in fact some land was becoming saturated with
 9 phosphorus?
 10 MR. GRAVES: Object to the form. 11:04AM
 11 A What Fred was doing with this letter was to
 12 try to make the contract producers aware that there
 13 was some concern, there was some sentiment out
 14 there. George's does not know, did not know if
 15 those -- if those statements were accurate or not, 11:04AM
 16 if those -- if those were in fact -- if that was in
 17 fact reality. What George's did know is that that
 18 was starting to be a concern in certain arenas.
 19 Q And did George's then share that concern,
 20 which is the reason for notifying its growers to 11:04AM
 21 take these actions?
 22 A That was the reason for the letter was to
 23 educate -- was to educate the growers on the fact
 24 that that concern was out there.
 25 Q Do you understand -- does George's understand 11:05AM

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1 what the purpose of a nutrient management plan is,
 2 its goal?
 3 A George's has an understanding of what the
 4 purpose of a nutrient management plan is.
 5 Q What is it? 11:05AM
 6 A It is to manage the nutrients on a given farm,
 7 on a given -- whatever the scope of that plan is,
 8 whether it be one field or whether it be a large
 9 farm, it is to manage all the nutrients on that
 10 farm. 11:05AM
 11 Q And when you say manage, is the goal in order
 12 to manage those nutrients is to keep them from
 13 transporting into water, streams, lakes?
 14 A That would be one of the goals.
 15 Q What would be another goal? 11:05AM
 16 A To maximize whatever forage or crop that
 17 you're producing on that piece of property, to get
 18 the maximum production out of that land without
 19 having greater expense or greater cost in it than
 20 would be necessary while at the same time reducing 11:06AM
 21 any potential for runoff or erosion or any one of a
 22 lot of factors.
 23 Q Okay. At this time was George's also
 24 concerned, and I read the last sentence, doing this,
 25 referring to these best management practices, can 11:06AM

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1 help the industry avoid government regulations that
 2 could make litter handling even more difficult. Was
 3 that a concern of George's at that time?
 4 A That was a concern as is stated in that
 5 letter. 11:06AM
 6 Q I think, as you have testified, George's has
 7 no independent knowledge whether or not lands were
 8 saturated with phosphorus at this time frame?
 9 A George's, as I stated earlier, didn't do any
 10 private studies or fund any private research, no. 11:07AM
 11 Q Okay.
 12 MR. GARREN: I think we need to take a
 13 break for a new tape.
 14 VIDEOGRAPHER: We are now off the Record.
 15 The time is 11:06 a.m. 11:07AM
 16 (Following a short recess at 11:07
 17 a.m., proceedings continued on the Record at 11:12
 18 a.m.)
 19 VIDEOGRAPHER: We are back on the Record.
 20 The time is 11:12 a.m. 11:12AM
 21 Q I'm going to hand you what's been marked as
 22 Exhibit 34 and ask you to look at this waste
 23 management plan.
 24 MR. GRAVES: What number was that?
 25 MR. GARREN: 34. 11:13AM

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1 Q Do you recognize the name Gary George and
 2 Musteen Farm?
 3 A I do.
 4 Q Is Gary George the same Gary George you
 5 referred to earlier who is probably a shareholder 11:13AM
 6 but at least he's on the board of directors of
 7 George's, Inc.; is that correct?
 8 A Yes.
 9 Q Is the Musteen Farm one of these owner-managed
 10 farms you referred to or is it something different? 11:13AM
 11 A It is something different as I look at it in
 12 the fact that that was part of the Commercial Egg
 13 Division.
 14 Q Oh, the Musteen Farm was?
 15 A Yes. 11:13AM
 16 Q So does the Musteen Farm still exist today
 17 after the sale of the Commercial Egg?
 18 A I believe that the Musteen Farm was not part
 19 of the sale and has been closed down.
 20 Q Okay. Skip over to Bates number 34224 in the 11:14AM
 21 lower right-hand corner, please. This refers to an
 22 amendment to the permit that was allowed for or
 23 connected to the operation of this Musteen Farm. Am
 24 I understanding correct that this lists different
 25 properties where the poultry manure, in this case 11:15AM

22 (Pages 82 to 85)

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1 liquid waste, would have been spread; is that the
 2 purpose for listing these properties in this plan,
 3 if you know?
 4 MR. GRAVES: Object to the form and
 5 foundation. 11:15AM
 6 A A liquid waste permit is different from a dry
 7 litter nutrient management plan. Land that liquid
 8 waste is -- that liquid manure is applied to has to
 9 be permitted for application, and these are the --
 10 these are the acreages that were permitted by the 11:15AM
 11 State for application of that liquid manure.
 12 Q And so this particular farm under those
 13 regulations would be allowed only to spread that
 14 liquid manure on these locations; is that your
 15 understanding? 11:16AM
 16 MR. GRAVES: Object to the form.
 17 A Yes.
 18 Q Let me hand you then what's been marked as
 19 Exhibit 3 and ask you to familiarize yourself with
 20 that document. I believe I'm correct. You said 11:16AM
 21 earlier Morrison farm was a farm that was company
 22 owned or managed. Is that a correct statement
 23 still?
 24 A That is correct.
 25 Q And has it always been company owned or 11:16AM

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1 managed?
 2 A Yes.
 3 Q Does it still exist today and operate today?
 4 A Yes, it does.
 5 Q It's a broiler farm, though; correct? 11:17AM
 6 A That is correct.
 7 Q So we're going to see the waste manure
 8 generated at this farm will be of the dry type as
 9 opposed to the liquid that we just spoke about on
 10 Musteen? 11:17AM
 11 MR. GRAVES: Object to the form.
 12 A It is a dry litter farm.
 13 Q All right. Turn to Page 7057 of this exhibit
 14 and under Table 3 it reports soil test phosphorus
 15 for land that is under this plan expecting to 11:17AM
 16 receive poultry manure; is that your understanding?
 17 A Yes.
 18 Q Looking at the levels of the soil tests in
 19 this, and there are approximately six fields listed
 20 here, is George's of the opinion that those levels 11:18AM
 21 are high of soil test phosphorus?
 22 MR. GRAVES: Object to the form.
 23 A Those levels -- those levels are high enough
 24 that they don't require additional applications of
 25 P205. They don't need more P205 spread at those 11:18AM

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1 levels.
 2 Q Does George's have an opinion how long it
 3 would need to wait before it could apply on these
 4 fields based upon these soil test levels we see
 5 here? 11:18AM
 6 MR. GRAVES: Object to the form.
 7 A No, because that depends on future crops
 8 grown, how intensely they're managed, are they
 9 grazed or are they hay and the hay removed. You
 10 know, are you going to plant a grain crop and move 11:18AM
 11 that grain off, or is everything that's there going
 12 to be grazed and just recycled back into the ground.
 13 So until you know -- until you have an idea of the
 14 tonnage of crop that you're going to remove per acre
 15 and the phosphorus that's moving out with that crop, 11:19AM
 16 then you don't know how long it's going to take it
 17 to work down.
 18 Q Does George's have an opinion whether or not
 19 this level of STP that we see -- the lowest level
 20 reported here is 657 pounds per acre; the highest is 11:19AM
 21 700 -- I'm sorry, 948 pounds per acre. Does it have
 22 an opinion whether or not that constitutes a single
 23 application or buildup over time?
 24 MR. GRAVES: Object to the form.
 25 A That would be a buildup over time. 11:19AM

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1 Q And do you know whether or not -- did
 2 George's, Inc., own this land?
 3 A Yes.
 4 Q And George's, Inc., would have been
 5 responsible for any manure that was applied to it 11:19AM
 6 prior to these soil tests?
 7 A Yes, but what we don't know -- what we don't
 8 know, at some point that land was purchased from
 9 somebody and what was the -- what was the phosphorus
 10 level in that soil at the time it was purchased. 11:20AM
 11 Q Do you know when George's, Inc., purchased
 12 this land?
 13 A I do not know when they purchased it. I know
 14 they owned it back in the '60's.
 15 Q And this test we're looking at or the nutrient 11:20AM
 16 management plan is dated in 1999, is it not?
 17 A Yes, it is.
 18 Q Okay. With regard to this particular piece of
 19 property, I think it refers to as being the 80
 20 acres, has George's at any time done anything to 11:21AM
 21 determine whether runoff occurred from these fields?
 22 A No. George's has commissioned no studies to
 23 determine if there was runoff of these fields.
 24 Q Has George's independently without
 25 commissioning a third party done anything to 11:21AM

23 (Pages 86 to 89)

<p style="text-align: right;">Page 90</p> <p>1 determine whether runoff has occurred from these 2 fields?</p> <p>3 A George's is not aware of any specific time or 4 event where litter would have ran off from these 5 fields. 11:21AM</p> <p>6 Q Okay. I guess my question is, what has 7 George's done to determine whether runoff has in 8 fact occurred at any time; have they done anything 9 to determine whether it has?</p> <p>10 A George's has worked with the folks from the 11:21AM 11 NRCS that has prepared these plans and has 12 cooperated with them.</p> <p>13 Q Was the cooperating with the NRCS solely for 14 the purpose of determining whether runoff was 15 occurring or had occurred? 11:22AM</p> <p>16 MR. GRAVES: Object to the form.</p> <p>17 A Absolutely not, not solely for that purpose.</p> <p>18 Q All right, and -- I'm sorry, go ahead. I 19 didn't mean to interrupt you.</p> <p>20 A Well, as we stated earlier, there's a lot of 11:22AM 21 reasons to have a nutrient management plan and that 22 is one of the reasons.</p> <p>23 Q Okay, but my question is this: Did George's 24 itself within its own capabilities, personnel, 25 determine whether runoff has occurred or was 11:22AM</p>	<p style="text-align: right;">Page 92</p> <p>1 that. So, therefore, we can't admit to the fact 2 that we're a greater part of the problem than all 3 the rest of these. In fact, you could make an 4 argument that -- you could make an argument that we 5 would be less of a problem in the fact that poultry 11:25AM 6 growers and poultry producers in general make an 7 effort to manage their nutrients, and I don't know 8 that cattle make an effort to manage theirs.</p> <p>9 Q Would you agree with me, sir, that that effort 10 by poultry growers has occurred generally as a 11:25AM 11 result of regulations by the State?</p> <p>12 A No.</p> <p>13 MR. GRAVES: Object to the form.</p> <p>14 A I would not agree with that because for most 15 of the years the nutrient management plans have been 11:26AM 16 in effect that was a totally voluntary program.</p> <p>17 There were no laws that said you have to have one of 18 these. There were no laws that said you have to 19 abide by them.</p> <p>20 Q Because somebody has a nutrient management 11:26AM 21 plan doesn't mean that they're abiding by it, does 22 it, sir?</p> <p>23 A It doesn't mean that they're abiding -- it 24 doesn't mean that they're abiding by it, but what it 25 means is that they have one, that they're aware, 11:26AM</p>
<p style="text-align: right;">Page 91</p> <p>1 occurring off of this land at any time?</p> <p>2 MR. GRAVES: Object to the form.</p> <p>3 A I think I answered that. No.</p> <p>4 Q Okay. Looking back at Exhibit 6, the request 5 for admissions and specifically Request No. 10 and 11:23AM 6 that response, the request says admit that poultry 7 waste contributes a greater amount of phosphorus to 8 portion -- to the portion of the Illinois River 9 located in Oklahoma than wastewater treatment 10 plants, cattle manure, manure from wildlife, septic 11:23AM 11 systems, commercial fertilizers and stream bank 12 erosion combined. George's states subject to, 13 without waiving, general objections, George's 14 denies. What did George's do to assist in preparing 15 that response, if it did? 11:23AM</p> <p>16 A It is George's belief that these others 17 listed, water treatment plants, cattle manure, 18 manure from wildlife, septic systems, commercial 19 fertilizers, stream bank erosions, contribute 20 greatly to any phosphorus problem or nutrient 11:24AM 21 loading that may exist. We don't know -- George's 22 does not know that phosphorus is causing the problem 23 in the Illinois River watershed. If it is causing a 24 problem, George's does not know that it's phosphorus 25 or P205 from our chickens that's contributing to 11:25AM</p>	<p style="text-align: right;">Page 93</p> <p>1 that they've soil tested their land, that they've 2 tested their litter. It means that they have all 3 the information that they need in front of them to 4 make sound judgments; whereas, that is not the case 11:26AM 5 with people that necessarily apply commercial 6 fertilizer. You can go buy commercial fertilizer 7 and you can apply it as deep as you want to apply it 8 and there's nobody standing there telling you don't 9 do that. You don't have a plan that says don't do 10 that; whereas, with poultry litter you do, and 11:27AM 11 because of that, we would not agree that we 12 contribute a greater amount than the others. In 13 fact, I think we believe that we contribute less 14 because our growers make an effort to manage that 15 situation. 11:27AM</p> <p>16 Q Just because they make an effort to manage it 17 doesn't mean it's less. What has George's done to 18 determine --</p> <p>19 MR. GRAVES: Object to the form of the 20 question. 11:27AM</p> <p>21 MR. GARREN: That's the predicate for my 22 question, sir.</p> <p>23 MR. GRAVES: That was an argument.</p> <p>24 MR. GARREN: Please let me finish my 25 question.</p>

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<p>1 MR. GRAVES: He's not going to answer 2 argument. 3 Q What has George's done to determine their 4 portion of this contribution of phosphorus to the 5 waters of the Illinois River watershed is less than 11:27AM 6 any of these other entities listed in Request No. 7 10? 8 MR. GRAVES: Object to the form of the 9 question. Are you asking that in the sense that 10 you're saying that that's what our response means is 11:28AM 11 that we -- 12 MR. GARREN: Would you please just object 13 to the form? 14 MR. GRAVES: No. 15 MR. GARREN: I don't need any coaching. 11:28AM 16 MR. GRAVES: I need to understand the 17 question, too. 18 MR. GARREN: Well, object to the form. 19 MR. GRAVES: And there was no coaching in 20 that question. 11:28AM 21 MR. GARREN: There certainly was. 22 MR. GRAVES: What was it? 23 Q Do you understand the question or not? 24 A The request was -- 25 Q Let me start over. Let me make sure you 11:28AM</p>	<p>1 study? We did not. We work with the folks at the 2 NRCS that are the soil scientists on the ground in 3 the watershed that understands these nutrients, that 4 understands how they move, and through the nutrient 5 management plans that they prepare, we manage that 11:30AM 6 situation. Now, did that answer your question? 7 Q What facts does George's have to support its 8 denial of Request No. 10? 9 MR. GRAVES: Object to the form. 10 A It doesn't ask if we have facts. It says -- 11:30AM 11 it asks us to admit to it. 12 Q Listen to my question. I'm asking you what 13 facts does George's have to support its denial of 14 that request? 15 MR. GRAVES: Same objections as outlined 11:30AM 16 last time. That again suggests that there's a 17 burden of proof on George's. It also suggests that 18 the answer he's already given isn't sufficient, and 19 he's explained why George's has formed a belief. 20 A George's has no hard facts to support that. 11:31AM 21 What George's has is a knowledge of the industry, a 22 knowledge of how these nutrients are handled. 23 George's has a working relationship with the soil 24 scientists that are out there on the ground 25 preparing these plans, and it's based on those 11:31AM</p>
Page 95	Page 97
<p>1 understand my question. My question doesn't have 2 anything to do with this request other than to say 3 what has George's done to determine its contribution 4 is less than any or all of these entities listed in 11:28AM 5 the Request No. 10 in contribution of phosphorus to 6 the water of the Illinois River watershed. That's 7 my question. 8 MR. GRAVES: I object to the form of the 9 question as to foundation, as to the suggestion that 11:28AM 10 there's a burden of proof shifting here or that 11 there was any suggestion that he said we did or 12 didn't do anything in any of his previous responses, 13 but he can answer if he understands the question. 14 A I believe I understand the question. In the 15 request to admit it asks us to admit that poultry 11:29AM 16 waste contributes a greater amount than the other 17 things. It doesn't ask us to go out and do a ton of 18 research and to commission a lot of studies and 19 prove that we're not. That's not what it says. It 20 doesn't say prove that poultry litter doesn't 11:29AM 21 contribute. It says admit. Well, we're not going 22 to admit to what we don't believe to be true, and we 23 don't believe that to be true. 24 Now, to the second part of your question, what 25 did we do? Did we go out and do a big independent 11:29AM</p>	<p>1 experiences that George's has formulated its 2 opinion. 3 Q If George's knows all of that, why would 4 George's, who owns the farm that we looked at in 11:31AM 5 Morrison, allow phosphorus levels to go as high as 6 900 STP? 7 MR. GRAVES: Object to the form. It's 8 argumentative and there's a suggestion that George's 9 allowed that to happen and he's already explained 10 that they're -- that we don't know that. 11:31AM 11 A We don't know what those levels were when we 12 bought the farm. 13 Q And you've stated you bought the farm in the 14 '60's and this is a 1999 -- 15 A I stated we owned it in the '60's. It was 11:32AM 16 purchased prior to that. I'm not -- 17 Q Okay. So has it had continuous ownership of 18 that land for that entire period of time? 19 A Yes. 20 Q And it controlled who or what could come in 11:32AM 21 and apply poultry manure on it, did it not? 22 A Yes. 23 Q And given that, is there anyone else who would 24 have contributed poultry manure or other forms of 25 phosphorus to that land besides George's? 11:32AM</p>

<p style="text-align: right;">Page 98</p> <p>1 MR. GRAVES: Object to the form of the 2 question. 3 A No. 4 Q Why do you think that the form -- that those 5 STP tests were as high as no less than 600 and as 11:32AM 6 high as over 900 then if George's was the only one 7 applying on it? 8 MR. GRAVES: Object to the form of the 9 question. 10 A Again, we don't know what that soil contained 11:32AM 11 when we bought it. They weren't doing soil tests 12 back then. Okay. At the time that we did start 13 soil sampling that piece of property and we had a 14 plan developed on it, we didn't apply any more 15 litter to it. 11:33AM 16 Q But up until that time George's had been 17 applying poultry manure to that field; would you 18 agree with me? 19 A George's applied poultry litter to that field. 20 Q Did George's supply to its attorneys any facts 11:33AM 21 or reasons other than what you've already stated 22 here today to support its denial for the Request to 23 Admit No. 10? 24 MR. GRAVES: Same objection as already 25 outlined with regard to the burden shifting 11:33AM</p>	<p style="text-align: right;">Page 100</p> <p>1 A And how did I answer that? 2 Q Tell me. 3 A I told you no. 4 Q So you could not give any to your lawyers? 5 A So if they did not exist, then I could not 11:34AM 6 give them to my lawyer. 7 Q All right. You have mentioned frequently 8 George's cooperation with the NRCS. Let me ask you 9 this: Does George's have any affiliation with the 10 Southeastern Poultry & Egg Association or 11:35AM 11 Southeastern Egg & Poultry Association? I'm not 12 sure how it's completely titled there. 13 MR. GRAVES: I object to the form of the 14 question just because of the implication that 15 cooperating with a government entity somehow is tied 11:35AM 16 to being involved with a poultry trade organization, 17 but he can answer the question. 18 Q Let me make it clear. I have no intentions of 19 tying any of that together. 20 A I understand. 11:35AM 21 Q My point is -- now I'm trying to change 22 subjects a little bit on you. Do you know whether 23 or not George's is a member or affiliated with the 24 association which is referred to as Southeastern 25 Poultry & Egg Association? 11:36AM</p>
<p style="text-align: right;">Page 99</p> <p>1 suggestion, the lack of foundation and the fact that 2 he's already answered the question. 3 A And I don't know how else to answer your 4 question. If you keep asking it, I'm going to keep 5 giving you the same answer. 11:34AM 6 Q It's not the same question, so let me rephrase 7 it so maybe you can understand it. 8 A Okay. 9 Q What did George's give to its attorneys to 10 prepare the response which is a denial to Request 11:34AM 11 No. 10 in the way of facts, evidence or materials? 12 MR. GRAVES: I object to the extent that it 13 involves the attorney-client privilege on any 14 communications, but he can answer the question 15 again. 11:34AM 16 A In discussion that we had with our attorneys 17 in preparing this, we said -- 18 MR. GRAVES: Don't talk about what you and 19 I talked about. 20 Q That's not the question. The question is, 11:34AM 21 what materials, facts or other evidence other than 22 communications did George's -- 23 A You asked me awhile ago, did George's have any 24 facts. 25 Q All right. 11:34AM</p>	<p style="text-align: right;">Page 101</p> <p>1 A We have had a relationship with U.S. Poultry & 2 Egg. 3 Q Which is a name change for what used to be 4 Southeastern, is it not? 5 MR. GRAVES: Object to the form. 11:36AM 6 A That -- I don't know the answer to that. 7 Q Okay. So do you know where U.S. Poultry & Egg 8 is located? 9 A I personally do not know where they're 10 located. 11:36AM 11 Q Does George's know? 12 A George's would know where they're located. 13 Q Does George's have any affiliation, knowledge 14 of or participation with the Poultry Federation? 15 A I assume you're talking the Arkansas 11:36AM 16 poultry -- Arkansas, Oklahoma, Missouri Poultry 17 Federation? 18 Q Yes, sir, but I think that's not its name. 19 A Well, there's a lot of Poultry Federations. 20 Q Let's talk about the one that's got offices in 11:37AM 21 Oklahoma and Arkansas. 22 A Okay. George's has not been a member of the 23 Arkansas Poultry Federation for a number of years. 24 There has been a certain level of participation on 25 industry-related issues but we have not held 11:37AM</p>

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1 membership in that organization for several years.
 2 Q When you say there's been a certain level of
 3 participation, what do you mean by that?

4 A They have annual -- the Poultry Federation
 5 sponsors an annual symposium for live production
 6 people where they bring in speakers and we send our
 7 servicemen and hatchery managers, different live
 8 production folks to those events, but as far as
 9 having someone on the board or having someone
 10 attending Federation meetings, for several years we
 11 have not participated in that.

12 Q Does it receive literature or information with
 13 regard to poultry growing from that Federation?

14 A Yes.

15 Q Does it do so regularly? 11:38AM

16 MR. GRAVES: Object to the form.

17 A I don't know what you would call regularly.
 18 Not daily, maybe not even weekly but probably at
 19 least once a month we would receive --

20 Q Regular in the sense of some kind of a 11:38AM
 21 newsletter, some kind of a mailout, information that
 22 the Federation would distribute, you would be on
 23 that distribution list?

24 A Yes.

25 Q And that would be true for a number of years? 11:38AM

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1 MR. GRAVES: Object to the form.

2 A I don't -- we receive things from the Poultry
 3 Federation. To tell you that we receive the same
 4 things that companies that have full membership in
 5 the Federation receive, I can't say that because I 11:38AM
 6 don't know what all they receive, but we do receive
 7 things from the Poultry Federation.

8 Q Does -- is George's familiar with what is
 9 referred to as the National Poultry Waste Management
 10 Symposium? 11:39AM

11 A From the standpoint that I have heard of that,
 12 I do know that that has occurred.

13 Q Has George's participated or attended any of
 14 the National Poultry Waste Management Symposiums?

15 A No. 11:39AM

16 Q Are there employees within George's who have
 17 any expertise in the area of environmental effects
 18 from methods or procedures used by George's for
 19 either growing poultry or handling its poultry
 20 waste? 11:39AM

21 MR. GRAVES: Object to the form of the
 22 question.

23 A Ask that question again, please.

24 Q Yes. Are there any employees within George's
 25 who have any expertise in the area of environmental 11:39AM

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1 effects for the methods or procedures used by
 2 George's for growing poultry?

3 MR. GRAVES: Same objection.

4 A I would answer that question yes from the
 5 standpoint that we have several people that work for 11:40AM
 6 George's that have degrees in agriculture. We have
 7 people that work for George's that have worked
 8 closely with the NRCS in preparing those plans so
 9 they would learn a certain amount of knowledge
 10 through those activities and then from the 11:40AM

11 standpoint that we have a lot of people that work
 12 for us that just have general farming backgrounds.

13 Now, to say that -- to say that we have a trained
 14 soil scientist on staff or a degreed environmental
 15 individual, we do not. 11:40AM

16 Q All right, and because somebody has farming
 17 experience doesn't necessarily mean they have
 18 knowledge with regard to the environmental effects
 19 of that farming. Would you agree with me?

20 MR. GRAVES: Object to the form. 11:41AM

21 A I would agree that one does not necessarily
 22 mean the other.

23 Q Does George's have anyone in its employ or has
 24 had anyone in its employ that has expertise in the
 25 area of environmental effects from the disposition 11:41AM

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1 of or handling of poultry manure?

2 MR. GRAVES: Object to the form.

3 A From the -- I guess I can re-answer the
 4 question, but for the same answer that I gave you on
 5 the earlier question, that we have a number of 11:41AM
 6 people with degrees in agriculture, with farming
 7 backgrounds that have worked with the NRCS and the
 8 soil scientists in preparing these plans.

9 Q Changing subjects a little bit, does George's
 10 have any knowledge of a gentleman by the name of Dr. 11:42AM
 11 Andrew Sharpley?

12 A I can say that I don't have knowledge of an
 13 individual by the name of Andrew Sharpley.

14 Q When you say I, you're meaning yourself
 15 personally? 11:42AM

16 A Myself personally.

17 Q You're not speaking for George's at this time?

18 A I can't tell you that nobody at George's knows
 19 Andrew Sharpley.

20 Q Is George's aware of the University of 11:42AM
 21 Arkansas Water Resource Center?

22 A Yes, we're aware of it.

23 Q How are they aware of it?

24 A Through meetings that we have attended at the
 25 University of Arkansas over a period of time. 11:42AM

27 (Pages 102 to 105)